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Ministry of Public Safety and Solicitor General

Modernization of Residential Tenancy Legislation

In British Columbia:

Draft Acts

December, 2001

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INTRODUCTION

The *Residential Tenancy Act*

The *Residential Tenancy Act* (RTA) regulates the relationship between landlords and tenants and provides an arbitration process for dispute resolution.

The Act's overall objective is to balance the rights and competing interests of both landlords and tenants, where a landlord has the power to significantly affect the tenant's quality of life, and the tenant has the ability to affect the landlord's right to earn a fair return on investment.

Right now, the RTA affects more than 548,000 rental premises (36.3% of all residential dwellings) in BC, including manufactured home park tenancies where tenants are home owners who rent the site on which their manufactured homes are located. The RTA is one of the most frequently used provincial statutes in British Columbia.

The Need for Change

The RTA needs to be modernized and made more effective in:

- clarifying both landlord and tenant obligations,
- reducing the number of disputes between landlords and tenants, and
- fostering constructive relationships between the parties.

The public has also made it clear that they would like to have the RTA written in language that the average person can read, understand and use – ensuring that both tenants and landlords will be able to interpret their respective rights and obligations under the law, and possibly avoid future disputes.

A New Era Priority

In June 2001, as a New Era priority, the government committed to modernize the *Residential Tenancy Act* to properly protect renters and landlords in plain language everyone can understand. This modernization includes:

- rewriting the legislation in language that the people who use the Act, landlords and tenants, can readily understand
- simplifying and streamlining policies, processes and procedures
- updating the legislation to meet current and future needs
- reducing unnecessary regulation and red tape and re-examining the role of government in residential tenancy relationships
- resolving outstanding policy issues, and
- implementing new policies and policy changes that will encourage a healthy rental housing market.

Step One: Draft Plain Language Legislation

The Manufactured Home Park Consultative Committee recommended that a separate Act be created to house provisions affecting that sector. This separation would give home owners and park owners easier access to information relevant to them, and highlight their unique needs and interests.

As a result – and as a first step in the modernization process – the current RTA has been divided into two, and both new Acts have been redrafted in plain language.

The draft *Residential Tenancy Act* (Appendix A) deals with all types of residential landlord and tenant matters except those affecting manufactured home park site tenancies. ("Conventional tenancies" is used here to refer to all tenancies that are not manufactured home site tenancies. The situation where a tenant rents both the home and the site under a single tenancy agreement is considered a conventional tenancy.)

The draft *Manufactured Home Park Tenancy Act* (Appendix B) houses all requirements and rules about manufactured home site tenancies affecting manufactured home and park owners.

Step Two: This Process

The Ministry invites readers to identify issues of interest or concern in the draft legislation and to suggest possible solutions. We want the resulting legislation to be as effective and efficient as possible in addressing the concerns and interests of both landlords and tenants.

Please provide feedback by January 31, 2002, to the Consumer Policy and Program Development Division, Ministry of Public Safety and Solicitor General:

By mail: P.O. Box 9296 Stn Prov Gov't, Victoria, BC, V8W 9J8
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By email: rto-feedback@ag.gov.bc.ca

Next Steps

After all submissions have been received the Ministry will invite key landlord and tenant stakeholder groups to attend consultation meetings, and to provide further suggestions to simplify and streamline the regulation of both the conventional and manufactured home park tenancy sectors.

At the end of this consultation process, the Ministry will consider all submissions and use them to form the basis for the final versions of the new *Residential Tenancy Act* and *Manufactured Home Park Tenancy Act*. The Ministry will also – once the new Acts are introduced – amend the associated regulations to ensure consistency with the new act and to eliminate unnecessary red tape. The form and content of the final acts and regulations remain at the discretion of the provincial government.

PART I

CONVENTIONAL TENANCIES

KEY UNRESOLVED POLICY ISSUES

1. Rent review:

The current rent review policy has been in place since 1994; it was simplified in 1999 after consultation with both landlords and tenants.

Rent review was created to prevent unjustifiable rent increases. Rent review applies only to existing tenancies, and landlords may charge what the market will bear for new units.

The landlord must give a written notice of a rent increase to the tenant at least three months prior to the effective date, and the landlord can increase the rent no more than once in any 12-month period.

Unless the existing tenant disputes the proposed rent increase, the increase goes into effect. If the tenant disputes the increase, the tenant can apply to the Director of the Residential Tenancy Office for an arbitrator to determine whether the proposed amount is justified. The arbitrator follows a process and a detailed set of criteria provided under the RTA and the *Rent Adjustment Regulation No. 2* to determine what would be a justifiable rent increase. The formula used for calculating the justifiable rent increase is based on variables that consider the change in local government levies, the landlord's capital expenditures, and the inflation factor applicable to the relevant 12-month period.

Should the current system of rent review as described above be retained? If so, are there any changes that should be made to the rent review formula, or the process for resolving rent increase disputes? If not, is there a better model for protecting tenants from unreasonably high rent increases?

2. Pets in rental units:

The RTA is currently silent on the matter of pets in rental units. Landlords and tenants are encouraged by the Residential Tenancy Office to negotiate acceptable terms about the presence of pets.

The BC Court of Appeal and the BC Supreme Court have ruled that a blanket no-pets clause is not enforceable. Arbitrators and the court have upheld the landlord's right to restrict the type and number of pets in rental units, to ensure the safety and well-being of the landlord and/or other tenants, and to protect the landlord's property from abuse.

Should legislation be passed to regulate whether or not landlords can prohibit pets in rental units? Are there other options that would protect the landlord's property from

damage and ensure the well being and safety of the landlord or other tenants, while supporting responsible pet owners in their search for rental housing?

3. Marijuana grow operations and drug labs:

The RCMP estimates that 90% to 95% of all grow operations are currently in rental housing. Consequently, landlords' property is at very high risk for fire, property damage related to grow operations, and possible criminal and legal liabilities.

The RTO has made information available to landlords to help them properly screen tenants, and to help them detect grow operations in their rental units. Landlords are encouraged to exercise their existing authority to conduct periodic inspections of the rental property.

Landlords can request an early end to a tenancy if the conduct of the tenant, or a guest of the tenant, unreasonably disturbs other occupants or if extraordinary damage, or a serious risk of such damage, to the premises may occur, or if there is a serious threat to the safety of the landlord or another occupant of the rental property. Almost immediate eviction and repossession by the landlord is possible if circumstances warrant, and arbitration hearings may be conducted within 24 hours.

Some provinces have specific legislative provisions that prohibit illegal activity within the rental unit and the common areas of the rental property. A landlord who can provide sufficient evidence to satisfy the dispute adjudicator that a tenant has contravened such provisions has reasonable grounds to evict the tenant.

Should BC landlords be permitted to evict tenants who engage in illegal activity, regardless of whether that activity is likely to impact negatively on the rental property or upon other tenants? Should this be a matter of contract between the landlord and tenant, or should the legislation codify a prohibition against illegal activity?

4. Security Deposits:

The RTA currently allows a landlord to require, at the start of a tenancy, a security deposit no greater than half of the first month's rent. The landlord is required to return the tenant's deposit and accumulated interest within 15 days of the end of the tenancy, unless the landlord obtains the written consent of the tenant, or the landlord applies for arbitration to retain the deposit.

If the landlord does not either return the deposit or apply for arbitration, the tenant can apply to the Director of the Residential Tenancy Office for an order that the landlord pay to the tenant the deposit and interest on the deposit. A Director's Order is enforceable in Provincial Court.

If the tenant vacates the rental unit without paying the final month's rent, a security deposit of one half a month's rent is insufficient to cover the unpaid rent. Should landlords be permitted to require a security deposit of a full month's rent to cover unpaid rent or damages to the rental unit? Should landlords who wrongfully withhold security

deposits at the end of tenancies be subject to penalties for not having returned the deposits? Are there other options that would ensure landlords are compensated for unpaid rent or damages, while ensuring tenants receive their deposits back at the end of their tenancies?

5. Arbitration Process:

The RTA deems parties to a tenancy dispute to have submitted their dispute to binding arbitration under the process set out in the Act. Arbitrators are appointed by the Minister, and are designated by the Director of the Residential Tenancy Office to conduct arbitration hearings.

The RTA gives the Director the authority to establish rules of procedure for the conduct of arbitration hearings and arbitration reviews, and to publish decisions of arbitrators or otherwise make them publicly available.

Either a landlord or tenant may apply to the Director for review of an arbitration decision. The Director must designate the original arbitrator to review the application, unless the original arbitrator is not available or it would not be appropriate to do so. If grounds for review are established, an arbitrator may reconsider their original arbitration decision based on the written submissions, or may hold a new hearing. There are three grounds for review of an arbitration decision:

- the party could not attend the original hearing due to circumstances that could not be anticipated and that were beyond his/her control,
- the party has new and relevant evidence that was not available at the time of the original hearing,
- the original arbitration decision was obtained by fraud.

A landlord or tenant may apply to the Supreme Court of BC for a petition for judicial review of an arbitration or arbitration review decision, under the *Judicial Review Procedures Act*.

Is the current arbitration process efficient and effective in resolving disputes between landlords and tenants? Is the process for review of arbitration decisions fair, timely, and expert, and does it provide the desired finality to the dispute resolution process? Are there improvements that could be made to the arbitration and arbitration review processes to better serve landlords and tenants?

6. Enforcement of the Act:

There are some actions taken by landlords and tenants that could constitute an offence under the RTA. For example, it is an offence under the RTA for the landlord or tenant to unilaterally alter the means of access to the rental unit, for the landlord to require the tenant to forfeit the security deposit at the end of a tenancy, or for the landlord to discontinue providing services or facilities. It is also an offence under the RTA to cause deliberate damage to property, to give false or misleading information at an arbitration proceeding, to fail to comply with an arbitrator's order, or to intimidate or harass a tenant

or landlord because he/she was seeking a remedy under the RTA. Upon conviction, a landlord or tenant may be fined up to $5,000 for each offence.

Enforcement falls under the *Offence Act* and is the responsibility of law enforcement agencies including municipal police, RCMP and Crown Counsel. As this is a civil, rather than criminal matter, the onus is on the complainant to initiate action.

Is the current enforcement process effective at ensuring compliance with the Act? In addition to prosecution, are there other options to better ensure compliance with the Act, and meaningful consequences for landlords and tenants who contravene the Act?

Appendix A

Plain Language Draft of Residential Tenancy Act

PLAIN LANGUAGE DRAFT

of

RESIDENTIAL TENANCY ACT

DISCUSSION DRAFT

October 2001

102-03075/

RESIDENTIAL TENANCY ACT

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DISCUSSION DRAFT

RESIDENTIAL TENANCY ACT

Definitions

1 (*1*) In this Act

"arbitrator" means an arbitrator designated under section 56 [*Arbitrator's designation*];

"director" means the director appointed under section 79 [*Director's appointment]*;

"landlord" includes

(a) the owner or other person permitting occupation of a rental unit;

(b) the heirs, assigns, personal representatives and successors in title of the owner or other person permitting occupation of the rental unit, and

(c) [a person who is entitled to possession of the rental unit, other than the tenant of it?];

"reasonable term" means a term of a tenancy agreement that is reasonable under section 11 [*Reasonable terms*];

"rent" means anything paid or given or any service provided by a tenant to the landlord in return for the right to occupy a rental unit and benefit from any service or facility, but does not include

(a) a security deposit, or

(b) a utility charge paid directly to the utility by the tenant;

"rental unit" means accommodation used or intended to be used for residential purposes to which this Act applies – see sections 2 and 3;

"residential property" means the rental unit and any land or premises rented with it or on which it is situated, any service or facility, and any common area shared with other tenants or the landlord;

"security deposit" means money given by a tenant to a landlord to provide the landlord with money at the start of a tenancy agreement that is available to pay for any liability or obligation of the tenant at the end of the tenancy agreement;

"service or facility" means any service or facility provided or agreed to be provided by a landlord to a tenant, for example,

(a) appliances and furnishings;

(b) utilities and related services;

(c) cleaning and maintenance services;

(d) parking and storage areas;

"tenancy agreement" means a rental agreement to which this Act applies – see sections 2 and 3;

"tenant" includes

(a) a person who pays rent in return for the right to occupy a rental unit, and

(b) the tenant's heirs, assigns and personal representatives.

(2) When the context requires, **"landlord"** includes a former landlord and **"tenant"** includes a former tenant.

(3) A reference to **"this Act"** includes regulations made under this Act.

(4) Examples used in this Act

(a) are intended to help illustrate a range of meanings a word or phrase can have,

(b) are not intended to restrict the ordinary meaning of the word or phrase they illustrate, and

(c) are not exhaustive.

PART 1

WHAT THIS ACT APPLIES TO AND WHAT IT DOES NOT

What the Act applies to

2 (1) Subject to section 3, this Act applies to

(a) living accommodation rented for residential purposes under an agreement or licence, including accommodation provided by an employer to an employee during employment;

(b) a manufactured home rented for residential purposes, including a manufactured home and the site on which it is located when they are rented for residential purposes under a single agreement;

(c) any land or premises rented with the accommodation or on which the accommodation is situated, any service or facility, and any common area shared with other tenants or the landlord, for example hallways, stairs, parking areas and entrances to buildings.

(2) This Act applies whether the tenancy agreement was entered into before or after this Act comes into force, except when otherwise stated.

(3) In subsection (1)(b), a manufactured home means a structure whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and that is used or designed to be used as a permanent or temporary residence.

What the Act does not apply to

3 This Act does not apply to

(a) accommodation rented out by a non-profit housing cooperative to a member of the cooperative;

(b) accommodation owned or operated by a college, university college, or Provincial institute designated under the *College and Institute Act* or a university as defined in the *College and Institute Act*;

(c) accommodation in which the landlord lives and in which the tenant shares bathroom or kitchen facilities with the landlord or the landlord's family;

(d) accommodation provided to the travelling or vacationing public;

(e) accommodation provided or occupied as a vacation home for a seasonal or temporary period in any of the following

(i) a hotel or motel;

(ii) a bed and breakfast establishment;

(iii) a tourist camp, lodge or cottage;

(iv) a cabin establishment, campground or trailer park;

(v) accomodation similar to the accomodation listed in subparagraphs (i) to (iv);

(f) accommodation for emergency shelter or accommodation in a transition house;

(g) accommodation in nursing homes, senior citizens lodges, mental health hospitals, or accommodation provided in the course of giving rehabilitative or therapeutic treatment or services;

(h) accommodation in a correctional institution;

(i) premises rented under a single lease that is occupied for business purposes with accommodation attached;

(j) a lease having a fixed term of 20 years or more, whether or not the lease can be terminated before the term ends;

(k) the rental of a manufactured home site or a manufactured home park to which the [draft] *Manufactured Home Park Tenancy Act* applies;

(l) accommodation designated, specified or described in the regulations.

This Act cannot be avoided or contradicted

4 (1) Landlords and tenants cannot avoid or contract out of this Act.

(2) Any attempt to avoid or contract out of this Act is of no effect.

(3) If a tenancy agreement and this Act conflict or are inconsistent, the conflicting or inconsistent terms of the tenancy agreement are of no effect.

(4) This Act applies despite any common law to the contrary.

Persons under-19-years-old can be tenants

5 A person under-19-years old may enter into a tenancy agreement as a tenant and the agreement and this Act is enforceable by and against that person despite section 19 of the *Infants Act*.

PART 2

RESIDENTIAL TENANCY AGREEMENTS

Division 1 – Creating a tenancy agreement

How to create tenancy agreements

6 (1) A tenancy agreement must be in writing, but if it is not the tenancy agreement is still effective and enforceable.

(2) The landlord is responsible for putting the tenancy agreement in writing.

Written tenancy agreements

7 (1) A written tenancy agreement must

(a) be dated and signed by the landlord and the tenant, and

(b) be legible and written in readily understandable language and form.

(2) The landlord must give the tenant a copy of any written tenancy agreement within 21 days after it has been signed by them both.

(3) If the tenancy agreement is in writing, the tenant need not pay rent until the tenant receives their copy of the tenancy agreement, at which time all unpaid rent must be paid.

Contents and effect of tenancy agreements

8 (1) A written tenancy agreement must include

(a) the legal names of the landlord and the tenant;

(b) the address of the rental unit;

(c) the address to which notices to the landlord must be sent, and the landlord's contact telephone number;

(d) the address to which notices to the tenant must be sent, if not the rental unit, and the tenant's contact telephone number;

(e) the date on which the tenancy agreement starts;

(f) the basis on which the rental unit is rented, being

(i) daily or weekly,

(ii) month-to-month, year-to-year or other basis, or

(iii) for a fixed length of time, and if so the pre-determined date on which the tenancy agreement ends, and the date the tenant will move out of the rental unit;

(g) the amount of the rent and when it must be paid;

(h) the services or facilities included in the rent;

(i) the amount of the security deposit and when it was paid;

(j) the rights, obligations and prohibitions imposed on landlords and tenants by this Act, as set out in the regulations;

(k) any other reasonable term.

(2) The tenancy agreement is effective and enforceable even though it does not include an item listed in subsection (1).

(3) A landlord and tenant must follow their tenancy agreement and this Act.

Liability for not following the tenancy agreement

9 (1) A landlord or tenant who does not follow a tenancy agreement or this Act must compensate the other for damage or loss that results.

(2) The tenant or landlord entitled to claim compensation must do what they can to minimize their damage or loss.

Who the tenancy agreement is enforceable against

10 (1) A tenancy agreement and this Act is enforceable by and against

(a) the landlord and a person having a legal interest in the residential property, and

(b) the person actually occupying the rental unit, whether the tenant or not.

(2) However, subsection (1) does not affect the rights and liabilities of the landlord and tenant under the tenancy agreement or under this Act.

Reasonable terms

11 (1) Every term of a tenancy agreement must be reasonable and relate to

(a) the tenant's use, occupation or maintenance of the rental unit, or

(b) the use of a service or facility provided for the rental unit.

(2) To be reasonable, [in the absence of evidence to the contrary?]

(a) the term must

(i) promote fair distribution of a service or facility,

(ii) promote the convenience, safety, and welfare of people living or working in the residential property, or

(iii) protect the landlord's property from damage, and

(b) the term must reasonably relate to the purpose for which it is intended and clearly inform the tenant of what must or must not be done.

(3) A term of a tenancy agreement is not a reasonable term if it provides for all or part of rent remaining for the period of the tenancy agreement becoming payable if a term of the tenancy agreement is not followed.

(4) A term of a tenancy agreement that is not reasonable has no effect.

Alterations and additions to tenancy agreement

12 A tenancy agreement may only be changed or added to if both landlord and tenant agree and the addition or change is a reasonable term – see section 11.

Division 2 – Joint inspection report, rekeying and security deposits

Start of tenancy: condition of rental unit report

13 (1) The landlord and tenant must jointly inspect the rental unit, and any areas that are not shared with other tenants, on the day the tenant starts to occupy the unit or on another mutually agreed day.

(2) The landlord must record on the form approved for use by the director

(a) the date of inspection;

(b) the state of repair and general condition of the rental unit and its contents;

(c) any damage or items in need of maintenance or repair, and

(d) any other information required by the director.

(3) Both the landlord and tenant must sign the inspection report and the landlord must provide the tenant with a copy of it within 21 days after it is signed.

Rekeying locks for new tenants

14 (1) At the request of a tenant at the start of a new tenancy agreement, the landlord must

(a) rekey or otherwise change the locks so that keys given to previous tenants do not give access to the rental unit, and

(b) pay all costs associated with the rekeying or other change.

(2) However, if the landlord already did this at the end of the previous tenancy agreement the landlord need not do it again.

Amount of security deposit

15 (1) A tenant may only provide and a landlord may only accept money as a security deposit and the amount must not exceed the equivalent of ½ the first month's rent.

(2) If the landlord receives as a security deposit more than the permitted amount, the tenant may deduct the amount overpaid from future rent.

Security deposits: landlord's obligations

16 (1) A landlord must not

(a) require a security deposit at any time other than at the start of a tenancy agreement;

(b) require or receive more than one security deposit for a rental unit, no matter how many permanent occupants of the rental unit there are;

(c) require a security deposit to be automatically paid to the landlord at the end of the tenancy agreement.

(2) The landlord must repay the security deposit to the tenant, with interest calculated as described in the regulations, within 15 days after the end of the tenancy agreement unless

(a) the tenant agrees in writing at the end of the tenancy agreement to allow the landlord to keep all or part of the security deposit to pay any liability or obligation of the tenant,

(b) the landlord files with the director an application for arbitration claiming all or part of the security deposit and interest, or

(c) an arbitrator has ordered the tenant to pay money to the landlord.

Security deposits: tenant's obligations

17 (1) A tenant must pay the landlord the security deposit at the time it is required to be paid by the tenancy agreement.

(2) The tenant must not use the security deposit as rent unless the landlord consents.

Security deposits: missing tenants

18 A landlord may keep a security deposit if

(a) at the end of a tenancy agreement the landlord is unable to locate the tenant, and

(b) the tenant does not claim the security deposit within 2 years after the end of the tenancy agreement.

Division 3 – Rent and use of residential property

Rent

19 (1) A tenant must pay rent at the times stated in the tenancy agreement.

(2) After a tenancy agreement starts, the tenant must pay rent and all other terms of a tenancy agreement apply, even though a tenant does not move in to a rental unit.

(3) A tenant must still pay rent even though the tenant considers the landlord to have seriously or significantly broken the tenancy agreement.

(4) A landlord must not

(a) take any personal property from the residential property or deny the tenant access to their personal property even if rent is not paid;

(b) require the tenant to provide post-dated cheques for rent, unless an arbitrator so orders;

(c) increase rent except in accordance with Part 3 [*Rent Increases*].

Additional fees and charges

20 A landlord must not impose on a tenant or require the tenant to pay any fees or charges in addition to the rent.

Services or facilities

21 A landlord must not

(a) take away or restrict a service or facility or make the tenant pay extra for a service or facility that is included in the rent, or

(b) take away or restrict a service or facility that is related to a rental unit, even though it is not specifically mentioned in the tenancy agreement.

Protection of privacy and use of residential property

22 (1) A tenant is entitled

(a) to reasonable privacy;

(b) not to be unreasonably disturbed;

(c) to use the residential property for ordinary purposes free from significant interference;

(d) to exclusive use of the rental unit, except for the right of the landlord to enter in accordance with section 23 [*Landlord's right to enter residential property*] or an arbitrator's order.

(2) In residential property in which the tenant lives, the tenant must not

(a) interfere with or disturb in any significant way other tenants or permanent occupants, the tenant's invited guests, or the landlord;

(b) jeopardize the health or safety of other tenants, permanent occupants, the tenant's invited guests, or the landlord, or put the landlord's property at risk;

(c) engage in activity prejudicial to the landlord.

Landlord's right to enter residential unit

23 A landlord must not enter a rental unit unless

(a) the tenant gives permission at the time of entry or not more than 30 days before entry;

(b) the landlord gives the tenant between 24 and 72 hours written notice before entering, giving in the notice

(i) a justifiable reason for entering the rental unit, and

(ii) the date and the time of entry which must be between 8a.m. and 9p.m., unless the tenant otherwise agrees;

(c) the landlord provides cleaning or related services under the terms of a written tenancy agreement and entry is for that purpose;

(d) the landlord has an arbitrator's order authorizing entry;

(e) the tenant has abandoned the rental unit;

(f) it is an emergency and entry is necessary to protect life or property.

Occupants and invited guests

24 (1) A landlord must not prohibit or restrict the tenant, permanent occupants or the tenant's invited guests from entering the rental unit, except in accordance with an arbitrator's order.

(2) A landlord must not restrict entry of candidates seeking election to a federal, Provincial, regional, municipal or school board office, or their authorized representatives, and who are canvassing electors or distributing election material.

Locks

25 (1) Neither the landlord nor the tenant may change, alter, add, or rekey locks, a locking system or a security device to a rental unit or residential property if it would unreasonably alter access to the unit or property

(a) unless they both agree, or

(b) except in accordance with an arbitrator's order.

(2) If security is threatened, a landlord may change, add, alter or rekey locks to residential property, and must then give the tenant a key or other access information to allow entry.

(3) A tenant may replace a defective lock to a rental unit but must promptly provide the landlord with a key or the means to open the door, unless an arbitrator's order directs otherwise.

Health and safety, maintenance and repair

26 (1) A landlord must

(a) provide and maintain the rental unit in a reasonable state of decoration and repair;

(b) follow housing, health and safety standards that are required by law.

(2) A tenant must keep the rental unit reasonably clean.

(3) A tenant must repair damage to the residential property that they, permanent occupants, or the tenant's invited guests cause, whether deliberately or accidentally.

(4) A tenant does not have to make repairs for reasonable wear and tear to the rental unit.

Emergency repairs

27 (1) For the purpose of this section "**emergency repairs**" are repairs that are both urgent and necessary for the health or safety of persons, or are necessary to preserve property, and are limited to repairs to:

(a) major leaks in the pipes or roof,

(b) damaged or blocked water or sewer pipes or plumbing fixtures,

(c) the primary heating system, and

(d) defective locks that give access to the rental unit.

(2) The landlord must post the name and telephone number of a contact person for emergency repairs.

(3) If an emergency repair is needed, a tenant must make at least two attempts to notify the person designated by the landlord to contact about the repair and give the landlord time to do the repair.

(4) If the emergency repair is not done, the tenant may do the repair and deduct the cost from the next month's rent, but only if the tenant accounts to the landlord for the cost and gives receipts justifying the cost.

(5) The landlord may take over completion of the emergency repair at any time.

(6) The landlord must reimburse the tenant for the tenant's costs in doing emergency repairs, except costs that an arbitrator finds to be

(a) not for emergency repairs,

(b) for emergency repairs for which the tenant did not try to contact the emergency repair contact person or has no receipts for the costs,

(c) for more than a reasonable cost for the emergency repair, or

(d) for emergency repairs for damage caused primarily by the tenant, permanent occupants or the tenant's invited guests.

Assignment and subletting

28 (1) A tenant who has a tenancy agreement of 6 months or more with a fixed predetermined expiry date may only assign or sublet the agreement if they first obtain the landlord's written consent to do so, and the landlord's consent must not be unreasonably withheld.

(2) An assignment or sublet of a tenancy agreement under subsection (1) is of no effect unless

(a) the landlord gives written consent before the assignment or sublet occurs, or

(b) an arbitrator orders the tenancy agreement assigned or sublet.

(3) If a tenant has any tenancy agreement other than an agreement described in subsection (1), the tenant may only assign or sublet the agreement if they first have the landlord's written consent to do so.

(4) A landlord must not charge a tenant anything for considering or granting a request to assign or sublet.

Leaving the rental unit at the end of a tenancy agreement

29 When a tenant moves out of a rental unit at the end of a tenancy agreement, the tenant must

(a) leave the rental unit reasonably clean and undamaged, other than reasonable wear and tear;

(b) give the landlord the keys or other information necessary to gain entry.

Arbitration of disputes

30 (1) Any dispute about a tenancy agreement or this Act may be referred to arbitration unless

(a) the Supreme Court, on application, orders that the matter is not to be referred to arbitration or subject to arbitration, or

(b) the claim is for more than the monetary limit for claims under the *Small Claims Act*, in which case the claim is not to be subject to arbitration under this Act.

(2) If the Supreme Court considers a dispute under this Act, it has all the authority that an arbitrator may exercise under this Act.

Division 4 – At the end of a tenancy agreement

End of tenancy – condition of rental unit report

31 (1) The landlord and tenant must jointly inspect the rental unit, and any areas that are not shared with other tenants, at the end of a tenancy agreement or on another mutually agreed day.

(2) The landlord must record on the form approved for use by the director

(a) the date of inspection;

(b) the state of repair and general condition of the rental unit and its contents;

(c) any damage or item in need of repair;

(d) if agreed by the landlord and tenant, the amount to be deducted from the tenant's security deposit;

(e) any other information required by the director.

(3) The landlord may complete the inspection and the report without the tenant if the tenant has abandoned the rental unit or if the tenant does not take part in an inspection offered by the landlord on at least 2 occasions

(a) on different days,

(b) on days that were not holidays, and

(c) between 8:00 a.m. and 9:00 p.m.

(4) Both the landlord and tenant must sign the inspection report and the landlord must give the tenant a copy as soon as possible after it is signed.

Return of keys

32 (1) For each change of locks or access ordered by an arbitrator, the tenant must give to the landlord at the end of the tenancy agreement the keys and other means that allow access to the rental unit.

(2) If the tenant does not do so, the landlord may recover from the security deposit the reasonable cost to replace the locks and other means that allow access to the rental unit that is

(a) agreed to by the landlord and tenant, or

(b) specified by an arbitrator's order.

PART 3

RENT INCREASES

Notice of rent increases

33 (1) A landlord must not increase a tenant's rent until at least 12 months after

(a) the date the rent was last increased in accordance with this Act, or

(b) if the tenant's rent has not previously increased, the date that the tenant's rent was established.

(2) Subsection (1) applies even though the landlord of the residential property changes.

(3) If the landlord is entitled to increase rent, the landlord must give the tenant at least 3 months notice of the date the rent increase is to be effective and the notice must be in the form approved for use by the director.

(4) If the landlord's notice to increase rent does not follow the time requirements of this section, the notice takes effect on the earliest date that would comply with this section.

Rent review

34 **To be developed following consultation.**

PART 4

HOW TO END TENANCY AGREEMENTS

Division 1 – Ending tenancy agreements

How tenancy agreements end

35 (1) A tenancy agreement only ends if

(a) the tenant gives written notice in accordance with section 37 [*How a tenant ends a tenancy agreement*];

(b) the landlord gives written notice for one or more of the reasons stated in this Division, in accordance with sections 38 to 45;

(c) the landlord and tenant agree in writing that the tenancy agreement is at an end;

(d) the tenant abandons the rental unit and the landlord takes possession of it;

(e) the tenancy agreement is for a fixed pre-determined expiry date and the tenant leaves the rental unit on that date;

(f) the rental unit is destroyed or so damaged that it cannot reasonably be repaired;

(g) an arbitrator orders that the tenancy agreement is at an end.

(2) If, at the end of a tenancy agreement with a fixed pre-determined expiry date,

(a) the tenant does not leave, and

(b) the landlord accepts money as rent or on some other basis,

the tenancy agreement continues on a month-to-month basis.

Contents and form of notices to end tenancy agreements

36 To be valid, a notice to end a tenancy agreement must

(a) be signed by the landlord or tenant giving the notice;

(b) give the address of the rental unit;

(c) state the date the tenancy agreement is to end;

(d) when given by a landlord, must be in the form approved for use by the director, and if it is not, the notice has no effect;

(e) when given by a tenant, must be in writing.

How a tenant ends a tenancy agreement

37 (1) A tenant may end a tenancy agreement by giving the landlord at least one month's notice to end the tenancy agreement, to be effective on the day before rent is ordinarily payable.

(2) A tenant may also end a tenancy agreement by giving the landlord notice

(a) that the tenant considers the landlord to have seriously or significantly broken the tenancy agreement and describing why, and

(b) stating that the tenant has decided to end the agreement on a date stated in the notice, which must be on or after the day the notice is given to the landlord.

(3) The tenant's notice must include the items required by section 36 [*Contents and form of notices to end tenancy agreements*];

Landlord's notice to end tenancy agreement – non-payment of rent

38 (1) On any day after rent is unpaid, the landlord may give the tenant notice to end the tenancy agreement stating the date the tenancy agreement ends, which must be at least 10 days after the notice is given to the tenant.

(2) A notice to end the tenancy agreement for non-payment of rent has no effect if the tenant has withheld or deducted from rent an amount permitted by this Act to be deducted or withheld.

(3) The landlord's notice must contain the items required by section 36 [*Contents and form of notices to end tenancy agreements*].

End of tenancy agreement for non-payment of rent: tenant's options

39 (1) After receiving a notice to end the tenancy agreement for non-payment of rent, the tenant may, before the tenancy agreement ends in accordance with the landlord's notice,

(a) pay the overdue rent in which case the landlord's notice has no effect, or

(b) file with the director an application for arbitration to dispute the landlord's notice and to extend the time to pay rent.

(2) If a tenant does not file an application under subsection (1) before the date the tenancy agreement is stated to end in the landlord's notice, or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the tenancy agreement ends on the date stated in the landlord's notice.

Landlord's notice to end tenancy agreement: not following tenancy agreement and other specific reasons

40 (1) A landlord may give the tenant notice to end a tenancy agreement if

(a) the tenant does not pay the security deposit within 30 days of the date it was to be paid;

(b) the tenant is persistently late paying rent;

(c) there are more than a reasonable number of permanent occupants living in the rental unit;

(d) the tenant, in the residential property in which the tenant lives,

(i) significantly interfered with or disturbed other tenants, permanent occupants or the landlord,

(ii) seriously jeopardized the health or safety of other tenants, permanent occupants or the landlord, or put the landlord's property at significant risk, or

(iii) engaged in activity seriously prejudicial to the landlord;

(e) the tenant changes, alters, adds or rekeys locks or changes access to a building without following the requirements of section 25 [*Locks*];

(f) the tenant does not repair extraordinary damage caused by the tenant, permanent occupants, or the tenant's invited guests, whether deliberately or accidentally;

(g) the tenant has not repaired damage to the rental unit or the residential property, whether deliberate or accidental, caused by the tenant, permanent occupants, or the tenant's invited guests that is more extensive than

reasonable wear and tear, after having been given written notice by the landlord to do so;

(h) attempts to assign or sublet the tenancy agreement without first getting the landlord's written consent;

(i) the tenant

(i) has not followed a reasonable term of the tenancy agreement, and the failure to do so is serious or significant, and

(ii) has not corrected the situation within a reasonable time after having been given written notice by the landlord to do so;

(j) the tenant deliberately told a prospective tenant or prospective purchaser something about the residential property that was not true;

(k) the rental unit rented to the tenant must be vacated to comply with an order of a Provincial, regional or municipal government authority.

(2) The landlord's notice must include

(a) the items required by section 36 [*Contents and form of notice to end tenancy agreements*];

(b) the reason for ending the tenancy agreement, and

(c) the date the tenancy agreement ends which, unless subsection (3) applies, must be at least one month after the notice is given, to be effective on the day before rent is ordinarily payable.

(3) If the landlord gives notice to end a tenancy agreement because

(a) the number of permanent occupants in the rental unit has increased due to the adoption or birth of a child or children, and

(b) the number of permanent occupants in the rental unit has become unreasonable,

the date the tenancy agreement ends must be at least 24 months after the notice to end the tenancy agreement is given to the tenant, to be effective on the day before rent is ordinarily payable.

(4) A tenant may apply to cancel a notice to end a tenancy agreement given under this section by filing with the director an application for arbitration within 10 days after the date the notice is given to the tenant.

(5) If the tenant does not apply to cancel the landlord's notice within the time required by subsection (4), or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the tenancy agreement ends on the date stated in the landlord's notice.

Notice to end tenancy agreement – landlord's use of property

41 (1) In this section

(a) **"close family"** means an individual's father, mother, spouse, child, or the father, mother or children of the individual's spouse;

(b) **"family corporation"** means a corporation in which all the voting shares are owned by

(i) one individual, or

(ii) one individual plus one or more of his or her close family or brother or sister.

(2) If a notice to end a tenancy agreement is given under subsections (3) to (7) the landlord must include the items required by section 36 [*Contents and form of notices to end tenancy agreements*] and give the tenant

(a) at least 2 month's notice to end the tenancy agreement, to be effective on the day before rent is ordinarily payable, or

(b) if the tenancy agreement has a fixed pre-determined expiry date, that date.

(3) A notice under subsection (2) may be given

(a) if the landlord or a close family member of the landlord intends in good faith to occupy the rental unit occupied by a tenant, or

(b) if the landlord is a family corporation, a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit occupied by a tenant.

(4) A notice under subsection (2) may be given if the landlord in good faith enters into an agreement to sell the residential property occupied by the tenant and

(a) the conditions on which the sale depends have been satisfied,

(b) either

(i) the purchaser or a close family member of the purchaser intends in good faith to occupy the rental unit, or

(ii) if the purchaser is a family corporation, a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the rental unit, and

(c) the purchaser requests the landlord to give a notice to end the tenancy agreement.

(5) A notice under subsection (2) may be given if the landlord has all the necessary permits and approvals required by law and

(a) intends in good faith to demolish the rental unit,

(b) intends in good faith to renovate the rental unit and the unit needs to be empty to do the renovation, or

(c) intends in good faith to convert the residential property to a strata title under the *Strata Titles Act*.

(6) A notice under subsection (2) may be given if the landlord intends in good faith to convert the residential property into rental units for renting out by a non-profit cooperative to members of the cooperative.

(7) A notice under subsection (2) may be given if the landlord intends in good faith, for at least 6 months, to

(i) use the unit for a caretaker, manager or superintendent employed by the landlord, or

(ii) use the unit for non-residential purposes.

Application to dispute a section 41 notice

42 (1) A tenant may apply to cancel a notice to end a tenancy given under section 41 [*Landlord's use of property*] by filing with the director an application for arbitration within 15 days after the notice is given to the tenant.

(2) If a tenant does not file a notice to cancel the landlord's notice within the time required by subsection (1), or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the tenancy agreement ends on the effective date of the notice.

Tenant may leave early

43 (1) If a landlord gives a tenant a notice to end a tenancy agreement under section 41 [*Landlord's use of property*], the tenant may, at any time during the period of the landlord's notice,

(a) give the landlord at least 10 days' notice to end the tenancy agreement, on a date that is earlier than the date specified by the landlord, and

(b) pay the landlord, on the date the tenant's notice is given, the proportionate amount of rent due up to the date the tenancy agreement is to end as stated in the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), the landlord must refund the overpayment.

(3) If the tenant ends the tenancy agreement early under this section, nothing affects the tenant's right to compensation or moving expenses.

Claim for compensation and moving expenses

44 (1) After moving out of a rental unit because of a landlord's notice under section 41, [*Landlord's use of property*] the tenant may apply for moving expenses and compensation by filing with the director an application for arbitration within 9 months after the end of the tenancy agreement to which the application relates.

(2) An arbitrator may make an order under subsection (3) if the tenant establishes that

(a) the reasons for giving a notice under section 41(3) [*Landlord's or family member's intention to occupy the rental unit*] did not occur, or were not given in good faith, or did not occur in accordance with the landlord's notice for 6 months or more starting within a reasonable time after the end of the tenancy agreement,

(b) the reasons for giving a notice under section 41(4) [*Agreement for sale and intended occupation of the rental unit*] did not occur, or were not given in good faith, or occupation of the rental unit did not occur in accordance with the landlord's notice for 6 months or more starting within a reasonable time after the end of the tenancy agreement, or

(c) the landlord did not demolish, convert or renovate the rental unit as stated in the notice under sections 41(5), (6) or (7) or that the landlord did not have a good faith intention to do so.

(3) The arbitrator may order that the landlord or purchaser, as the situation warrants,

(a) pay the tenant's actual and reasonable moving expenses to their new accommodation, and

(b) compensate the tenant for additional expenses incurred or that may be incurred by the tenant, including for a period up to 12 months, any increased rent or portion of it that the tenant had or may have to pay.

(4) It is a defence to a claim for expenses and compensation under this section if the landlord or purchaser establishes that they acted in good faith at the time the notice to end the tenancy agreement was served on the tenant.

(5) If the landlord gives a notice to end a tenancy agreement to demolish, convert or renovate the rental unit as described in section 41(5), (6) or (7), the landlord must pay the tenant the greater of

(a) the tenant's actual and reasonable moving expenses to new accommodation up to a maximum equal to one month's rent, or

(b) if a successful claim for moving expenses and compensation is made under this section, the total amount awarded by the arbitrator under subsection (3).

Landlord's notice to end tenancy agreement: employment-related reason

45 (1) A landlord may only give notice to end a tenancy agreement of a rental unit rented or provided to a person employed as a caretaker, manager or superintendent of the residential property in which the rental unit is located if

(a) the tenant's employment as a caretaker, manager or superintendent ends, and

(b) the landlord in good faith intends to rent or provide the unit to a new caretaker, manager or superintendent.

(2) Under subsection (1), the landlord must give at least one month's notice to be effective on the day before rent is ordinarily payable, and the notice must include the items required by section 36 [*Contents and form of notices to end tenancy agreements*].

(3) A tenant may apply to cancel a notice to end a tenancy under this section by filing with the director an application for arbitration within 10 days after the notice is given to the tenant.

(4) If the tenant does not apply to cancel the landlord's notice before the tenancy agreement is stated to end in the landlord's notice, or within any extension of time permitted by an arbitrator's order, the tenant conclusively accepts that the tenancy agreement ends on the date stated in the notice.

Correcting effective dates of notices

46 If a landlord or tenant gives notice to end a tenancy agreement and the effective date is incorrect, the effective date is automatically changed as follows:

Problem with date specified	*Changed to*
Effective date is earlier than the effective date permitted by the Act..	Earliest permitted date.
Effective date is later than the earliest permitted effective date.	The day before the next day on which rent is ordinarily payable.
Effective date is one day later than the effective date permitted by the Act..	The preceding day.

Defective notices

47 (1) If a notice to end a tenancy agreement is defective, it has no effect unless an arbitrator amends it, in which case it is enforceable in accordance with its amended terms.

(2) An arbitrator may amend a defective notice if satisfied that

(a) the notice did not contain information that it should have contained,

(b) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and

(c) in the circumstances, it is reasonable to amend the notice.

(3) A notice that is not signed has no effect.

Division 2 – Order for possession of rental unit

Order for possession for landlord

48 (1) A landlord may apply for an order for possession of a rental unit by filing with the director an application for arbitration, or by making the application

(a) at the hearing of a tenant's application to cancel a notice to end a tenancy agreement,

(b) at any time after a notice to end a tenancy agreement has been given by a tenant,

(c) if the landlord gave notice to end a tenancy agreement, at any time after the earlier of

(i) the expiry of the applicable time to file an application to cancel a notice to end a tenancy agreement, or

(ii) the time an application to cancel a notice is filed with the director,

(d) if the tenancy agreement is for a fixed pre-determined expiry date, at any time after the agreement is entered into, or

(e) at any time after the landlord and tenant agree in writing that the tenancy agreement is ended.

(2) An arbitrator may grant an order for possession before or after the date when the tenant is required to move out of a rental unit, to be effective on the date specified in the order.

Early possession for landlord

49 (1) A landlord may apply for an order for early possession of a rental unit by filing with the director an application for arbitration for an order that:

(a) a tenancy agreement end on a specified date earlier than it would end if a notice to end the tenancy agreement were given under this Act, and

(b) possession of a rental unit be granted to take effect on or after that day.

(2) An arbitrator may only make an order for early possession under this section if satisfied that

(a) the tenant has

(i) significantly interfered with or disturbed other tenants, permanent occupants or the landlord,

(ii) jeopardized the health or safety of other tenants, permanent occupants, or the landlord, or put the landlord's property at significant risk,

(iii) caused extraordinary damage to a rental unit or residential property, or

(iv) engaged in activity seriously prejudicial to the landlord, and

(b) it would be unfair or unreasonable to the landlord or other tenants to wait for a notice to end the tenancy agreement to take effect.

(3) If an order is made under this section the landlord does not need to give the tenant notice to end the tenancy agreement.

Order for possession for tenant

50 (1) A tenant or prospective tenant may apply for an order for possession of a rental unit by filing with the director an application for arbitration.

(2) An arbitrator may grant an order for possession to the applicant before or after the tenancy agreement starts, to be effective no earlier than the date the agreement starts.

What happens if a tenant does not leave after a notice to end the tenancy agreement takes effect

51 (1) If a tenant does not move out of a rental unit after a tenancy agreement has ended, the landlord may only take actual possession of the unit under a writ of possession obtained under the *Supreme Court Rules*.

(2) If a landlord or tenant gives notice to end the tenancy agreement in accordance with this Act and the tenant continues to occupy the rental unit after the effective date of the notice, the landlord may claim from the tenant compensation for the period the tenant continues to occupy the unit.

(3) If a landlord is entitled to claim compensation and a person brings proceedings against the landlord to enforce their right to possess the rental unit occupied by the tenant, the landlord may add the tenant as a party to the proceedings.

PART 5

RESOLVING DISPUTES

Division 1 – Administration of the arbitration system

Appointment of arbitrators

52 (1) The Minister may appoint arbitrators for the purposes of this Act.

(2) Arbitrators are to be paid the fees and expenses specified by the Minister and must be reimbursed for any actual and reasonable travelling and living expenses incurred in the performance of their duties.

(3) Arbitrators appointed by the Minister are not employees of the Government.

Rules of procedure and code of conduct

53 (1) The director may

(a) make rules of procedure for the conduct of arbitrations;

(b) establish a code of conduct for arbitrators.

(2) The rules of procedure and code of conduct must be readily available to the public.

Division 2 – Arbitration proceedings

Starting arbitration proceedings

54 (1) An arbitration proceeding is started by either a landlord or a tenant

(a) filing with the director an application for arbitration in the form approved for use by the director, and

(b) paying the fee specified in the regulations.

(2) A copy of the application must be sent to the other party or parties by the person filing the application within 3 days of the filing.

(3) The director need not collect the fee if the director is satisfied

(a) the applicant cannot reasonably afford it, or

(b) circumstances warrant no fee being collected.

(4) The director may refuse to accept an application for arbitration if the applicant has not paid any past fee owing by the applicant to the director.

Latest time arbitration applications can be filed

55 If this Act does not state a time by which an application for arbitration must be filed, it must be filed within 2 years of the end of a tenancy agreement to which the matter relates, or else the application is of no effect.

Arbitrator's designation

56 (1) When an application for arbitration is properly completed and filed, the director must designate an arbitrator to have jurisdiction over the dispute.

(2) The director may schedule two or more matters for one proceeding and specify the time, date and place of the hearing.

(3) When circumstances warrant, the director may reassign a dispute to another arbitrator.

Consolidation or separation of disputes

57 (1) The director may consolidate or separate two or more matters referred to arbitration when it would be convenient and appropriate to do so.

(2) When one or more matters are referred to an arbitrator, the arbitrator may consolidate the matters into one dispute when it would be convenient and appropriate to do so and the subject matters raise substantially the same issue in substantially similar circumstances, or separate them into separate matters when the situation warrants.

Arbitrator's jurisdiction

58 (1) An arbitrator has jurisdiction over

(a) disputes referred by the director to the arbitrator, and over any matter related to that dispute, and

(b) any other matter agreed to by the parties that arises under a tenancy agreement or this Act.

(2) An arbitrator may dismiss an application if

(a) there are no reasonable grounds for the application,

(b) the application does not disclose a dispute that can be arbitrated, or

(c) the application is frivolous or an abuse of the arbitration process.

Arbitrator's role

59 The arbitrator must

(a) be independent of the parties, and

(b) treat the parties impartially.

Disclosure of possible bias

60 An arbitrator must disclose to parties any circumstances of which the arbitrator is aware that may give rise to a reasonable apprehension of bias.

Arbitrator's jurisdiction ending

61 An arbitrator's jurisdiction over a matter ends if

(a) the arbitrator resigns from the dispute for which they are the designated arbitrator, or

(b) the matter is reassigned by the director from one arbitrator to another.

How proceedings can be conducted

62 (1) The arbitrator may conduct proceedings

(a) in a hearing;

(b) by documents only;

(c) by electronic communication, telephone conference or video conference;

(d) by any combination of these methods.

(2) The arbitrator may administer oaths, affirmations and declarations.

Rules of procedure

63 An arbitrator decides the procedure for an arbitration and is to follow the director's rules of procedure.

Rules of evidence do not apply

64 An arbitrator is not bound by the rules of evidence or other law applicable to judicial proceedings and decides on the admissibility, relevance, and weight of evidence.

Limit on evidence that can be required

65 No person is to be compelled to produce information, property or give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

Settlement opportunities

66 (1) An arbitrator may, if the parties consent, assist the parties or offer the parties an opportunity to settle their dispute.

(2) If the parties settle their dispute during arbitration proceedings, the arbitrator may record the settlement in the form of a decision and order, or make a decision and order.

Summons to attend and produce

67 (1) On request or on their own initiative, an arbitrator may summons a person

(a) to attend a hearing or proceeding with documents or other evidence and give evidence about them;

(b) to attend a hearing or proceeding and give evidence.

(2) If a person does not comply with a summons to attend or a summons to attend and produce documents, on application to the Supreme Court, that person is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

Arbitrator's authority

68 (1) Arbitrators are to make their decisions and orders on the merits of the matter before them and are not required to follow other arbitration decisions.

(2) An arbitrator may

(a) deal with any procedural issue that arises;

(b) make interim or temporary orders;

(c) extend or modify time limits imposed by this Act, but only if special circumstances exist;

(d) amend or permit an application for arbitration to be amended to correct a mistake or inadvertent omission.

(3) An arbitrator may in addition to any other authority given by this Act

(a) make any order necessary to enforce a tenancy agreement or this Act;

(b) order a party or parties to compensate any other party or parties, individually or jointly, or by apportioning liability for debt or damage, for not following a tenancy agreement or this Act , and the order may include aggravated damages;

(c) order anything required to be provided, done or not done under a tenancy agreement or this Act be provided, done or not done;

(d) declare to be of no effect a term of a tenancy agreement that is not considered by the arbitrator to be a reasonable term.

(4) An arbitrator may, in accordance with this Act,

(a) order that a tenancy agreement end on a date other than the date shown on the notice to end the tenancy agreement;

(b) cancel a notice to end a tenancy agreement if the notice does not follow this Act or cancellation is permitted by this Act.

(5) *Arbitrator's jurisdiction over rent increases – see consultation paper.*

(6) An arbitrator may make any other order the justice of the dispute warrants, and in particular may,

(a) order a tenant to pay rent to a named person to be held in trust or on conditions;

(b) order a tenant to deduct an amount from rent to be spent on a repair, service or facility, or on any other matter ordered by the arbitrator;

(c) order the landlord to provide a service or facility that is required by a tenancy agreement or that is reasonably related to the tenant's use of the rental unit;

(d) order any money paid or unpaid by a tenant to a landlord to be

(i) paid or repaid [with interest?] to follow this Act or the tenancy agreement;

(ii) considered as a payment towards future rent;

(iii) deducted from rent payable;

(iv) otherwise considered to be a payment of an obligation or a liability of the tenant to the landlord;

(e) order personal property taken or received by a landlord contrary to this Act or a tenancy agreement to be returned;

(f) order past or future rent reduced, equivalent to the reduced value of the tenancy agreement, because the landlord failed to follow the tenancy agreement, this Act, or an order of an arbitrator;

(g) order the landlord to return post-dated cheques taken for rent or other payments, and order the landlord to pay any costs associated with cancelling post-dated cheques;

(h) order a tenancy agreement assigned or sublet if the landlord's consent has been unreasonably withheld under section 28(1).

(7) An arbitrator

(a) may suspend a landlord's right of entry under this Act – see section 23 or order that a right of entry be permitted on conditions set by the arbitrator, if the arbitrator is satisfied that the landlord

(i) improperly entered a rental unit,

(ii) gave a reason for entry that was not true, or

(iii) entered for an improper purpose, at an unreasonable time, or in an unreasonable manner;

(b) may, if the arbitrator believes it necessary to safeguard the privacy of the tenant,

(i) authorize the tenant to change the locks and other means that allow access to the rental unit, and

(ii) order the landlord not to change those locks or obtain keys or by other means get into the rental unit.

(8) An arbitrator may refuse to enforce all or any part of a tenancy agreement that is

(a) not legible, or

(b) not written in readily understandable language and form.

(9) The arbitrator may order payment or repayment of a filing fee by one party to another, or to the director.

Effect of arbitrator's decision

69 (1) A decision and order of an arbitrator is final and binding on the parties, except as otherwise provided by this Act – see section 71 [*Application for review of arbitrator's order or decision*].

(2) A decision and order must be in writing, signed and dated, and stating the reasons for it.

(3) A decision and order must be made within 30 days after the proceedings conclude, but if the decision and order is late, the arbitrator does not lose jurisdiction nor does it affect the validity of the decision or order.

Errors, omissions or clarification of decisions or orders

70 (1) An arbitrator

(a) may, with or without a hearing, and with or without the request of a party to the arbitration, correct typographical, arithmetic or other similar errors in the decision or order, and

(b) may, with or without a hearing, on the arbitrator's own initiative, or on the request of a party made within 15 days after the decision or order is given,

(i) clarify the decision or order, or

(ii) deal with an obvious error or inadvertent omission in the decision, or order.

(2) The request to an arbitrator by a party to an arbitration may be made without notice to any other party, but the arbitrator may require that any other party be given notice.

(3) An arbitrator must not act under this section unless the arbitrator considers it just and reasonable to do so in all the circumstances.

Division 3 – Review of arbitration orders and decisions

Application for review of arbitrator's order or decision

71 (1) A party to an arbitration may apply to the director for review of an arbitrator's order or decision.

(2) The director must designate the original arbitrator to review the application unless the original arbitrator is not available or the director considers it appropriate to designate a different arbitrator.

(3) An order or decision of an arbitrator may be reviewed on one or more of the following grounds:

(a) a party was unable to attend the original hearing due to circumstances that could not be anticipated and that were beyond their control;

(b) a party has new and relevant evidence that was not available at the time of the original hearing;

(c) a party has evidence that the arbitrator's order or decision was obtained by fraud.

(4) An application for review of an arbitrator's order or decision

(a) must be made in the form and manner approved by the director,

(b) may be made without notice to any other party, and

(c) must be accompanied by full particulars of the evidence on which the applicant intends to rely.

(5) A party to an arbitration may make an application under this section only once in respect of that arbitration.

Time limits for application to review

72 (1) A party must make an application for review of an arbitrator's order or decision

(a) within 2 days after a copy of the order or decision is received by a party if the order and decision relates to

(i) the unreasonable withholding of consent by a landlord to an assignment or subletting by a tenant under section 28(1) [*Assignment and subletting*];

(ii) whether a landlord will be granted an order for early possession of a rental unit under section 49 [*Early possession for landlord*];

(iii) an application for an order for possession by a landlord under section 48 or a tenant under section 50;

(b) within 5 days after a copy of the order or decision is received by a party if the order or decision relates to

(i) an order to repair or decorate the rental unit or provide a service or facility, or

(ii) payment of rent by the tenant to another person for the landlord;

(c) within 15 days after a copy of the order or decision is received by a party for any other matter.

(2) An arbitrator may extend the time for making an application for review of an arbitrator's order or decision or for taking any steps in the review.

Decision on application for review

73 (1) At any time after an application for review of an arbitrator's decision or order is made, the arbitrator designated to conduct the review may dismiss or refuse to consider the application for one or more of the following reasons:

(a) the issue raised by the application can be dealt with sufficiently by requesting a decision or order to be corrected, clarified or dealt with under section 70 [*Errors, ommissions or clarification of decisions or orders*];

(b) the application

(i) does not give full particulars of the matter submitted for review;

(ii) does not disclose sufficient grounds for the review;

(iii) discloses no grounds on which, even if the submission were accepted, the decision or order of the arbitrator would be cancelled or varied;

(iv) is frivolous or an abuse of process;

(c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

(2) A decision on whether an application discloses sufficient grounds for review may be based on the written submissions of the applicant alone.

(3) The reviewing arbitrator may order that the decision or order to be reviewed be suspended, with or without conditions, until the review has been completed and a decision given to the parties.

(4) Within 3 days of receiving a decision to proceed with the review, or as otherwise ordered by the reviewing arbitrator, the applicant must serve a copy of the decision, and any order giving effect to the decision to proceed with the review, on the other party.

Review of arbitration order or decision

74 (1) If the reviewing arbitrator decides that there are sufficient grounds to review the order or decision, the arbitrator may deal with the matter on its merits.

(2) The reviewing arbitrator may review the order or decision based solely on the record of the original arbitration and any written submissions of the parties.

(3) The reviewing arbitrator may confirm, vary or cancel the original order or decision.

(4) The reviewing arbitrator must give a decision in writing and with reasons.

Powers of reviewing arbitrator

75 The reviewing arbitrator has all the powers and duties of an arbitrator in an original arbitration.

Division 4 – Enforcement of arbitration orders

Arbitration orders filed in Supreme Court

76 When a review of an arbitrator's decision or order is concluded, or the time limit to apply for a review is over, the decision or order (whether interim, temporary or final) may be filed in the Supreme Court and enforced as an order or judgment of the Supreme Court.

Arbitration orders filed in Provincial Court

77 (1) The following orders may be filed in the Provincial Court and enforced as an order or judgment of the Provincial Court:

(a) an arbitrator's order when a review of the arbitrator's decision or order is concluded or the time limit to apply for a review is over, if the order is for financial compensation or the return of personal property, and the amount required to be paid under the decision or order, or the value of the personal property, is $10,000 or less, excluding interest and costs, and

(b) the director's order that a landlord pay a security deposit, with interest and filing fee to a tenant – see section 82 [*Director's security deposit return orders*].

(2) If a director's order is filed in the Provincial Court and the order was made in the absence of a party, the judge may, on application of the absent party, amend or cancel the order.

***Commercial Arbitration Act* not applicable**

78 The *Commercial Arbitration Act* does not apply to an arbitration under this Act.

PART 6

ADMINISTRATION OF THE ACT, SERVICE OF DOCUMENTS, REGULATIONS AND OFFENCES AND PENALTIES

Division 1 – Administration of the Act

Director's appointment

79 A director must be appointed in accordance with the *Public Service Act* for the purposes of this Act.

Director's responsibilities

80 (1) The director is responsible for the administration and management of all matters and persons appointed under this Act.

(2) The director may delegate any of their powers or duties under the Act.

(3) The director may approve forms for the purposes of this Act.

(4) Deviations from a form approved by the director that do not affect its substance, and are not calculated to mislead, do not invalidate the form used.

Public information

81 The director may

(a) give information to landlords and tenants about their rights and obligations under this Act;

(b) help landlords and tenants resolve any dispute that can be or has been referred to arbitration;

(c) publish or arrange for the publication, or otherwise make available to the public, arbitration decisions or summaries of them.

Director's security deposit return orders

82 (1) A tenant may apply to the director, without notice to the landlord, for an order that the landlord return the tenant's security deposit, with interest, if the landlord

(a) has not returned the security deposit with interest as required by section 16(2) [*Security deposits: landlord's obligations*], and

(b) has not filed an application to keep some or all of the security deposit.

(2) The application must be in the form satisfactory to the director and accompanied by any fee required to be paid under the regulations.

(3) The director may

(a) without a hearing, order the landlord to pay to the tenant the security deposit and interest, and any application fee paid by the tenant;

(b) amend or cancel the order.

(4) The director's order does not take effect until the landlord has been served with the order.

Division 2 – How to give or send documents to someone else

Rules for service of specific documents

83 (1) The following documents must be given, sent or served in accordance with subsection (2):

(a) the director's order to a landlord to pay a security deposit, interest and filing fee;

(b) an application for arbitration served by one party to the arbitration on another party;

(c) a decision to proceed with a review of an arbitrator's decision served by one party on another party.

(2) The documents listed in subsection (1) may only be given, sent or served on a person:

(a) by leaving a copy of the document with the person;

(b) if the person is a landlord, by leaving a copy of the document with an agent of the landlord;

(c) by sending a copy of the document by registered mail to the address at which the person resides, or if the person is a landlord, to the address at which the person carries on business as a landlord.

How to serve documents generally

84 All documents other than those referred to in section 83 [*Rules for service of specific documents*] that are required or permitted to be given to, sent, or served on a person under this Act must be served in one of the following ways:

(a) by leaving a copy of the document with the person;

(b) if the person is a landlord, by leaving a copy of the document with an agent of the landlord;

(c) by sending a copy of the document by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) by sending a copy of the document by ordinary mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(e) by leaving a copy of the document at the person's residence with an adult person who apparently resides with the person to be served;

(f) by leaving a copy of the document in a mailbox or mail slot at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(g) by attaching a copy of the document to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(h) by transmitting a copy of the document to the fax number provided as an address for service by the person to be served;

(i) any other means of service specified in the regulations.

When documents are considered to have been received

85 (1) A document served is considered to have been received

(a) if served by mail, on the fifth day after mailing it,

(b) if served by fax, on the third day after faxing it,

(c) if served by attaching a copy of the document to a door or other place, on the third day after attaching it, or

(d) if served by leaving a copy of the document in a mail box or mail slot, on the third day after leaving it.

(2) An arbitrator may make the following orders:

(a) that a document must be served in a manner the arbitrator considers necessary, despite sections 83 and 84;

(b) that a document has been sufficiently served for the purposes of this Act on a day the arbitrator decides;

(c) that a document not served in accordance with sections 83 or 84 has been sufficiently given, sent or served for purposes of this Act if the person concerned receives it and is aware of its nature.

Division 3 – Regulations, Offences and Penalties

Regulation-making authority

86 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations:

(a) requiring landlords to post required information in specified locations;

(b) prescribing the rate of interest payable on security deposits;

(c) exempting or applying all or part of this Act to a person, accommodation, property or premises;

(d) respecting the rights and obligations of landlords and tenants that are the terms of a tenancy agreement;

(e) prescribing, for breach of a regulation, a penalty not exceeding the penalty referred to in section 87 [*Offences and penalties*];

(f) prescribing the circumstances when a landlord may consider that a tenant has abandoned personal property, the manner in which a landlord may dispose of personal property abandoned by a tenant, how competing claims on the property are to be resolved, the circumstances in which the purchaser of abandoned personal property acquires a marketable title free of all encumbrances, how proceeds from disposing of the property are to be dealt with and imposing a duty of care on the landlord for that property;

(g) prescribing the manner in which any transition question or issue arising because of the repeal of the *Residential Tenancy Act* is to be resolved;

(h) defining a word or phrase used but not defined in the Act;

(i) respecting matters related to a review of arbitration decisions;

(j) prescribing fees for anything done or any service provided under this Act;

(k) respecting those matters for which the Act provides regulations may be made.

(3) The Lieutenant Governor in Council regulations respecting rent review: see consultation paper.

(4) A regulation may apply generally or to a class of persons, accommodation, property or premises.

Offences and penalties

87 (1) A person who contravenes [sections XXXX] commits an offence and is liable, on conviction, to a fine of not more than $5000.

(2) A person who contravenes or fails to comply with a decision or order made by an arbitrator commits an offence and is liable, on conviction, to a fine of not more than $5000.

(3) A person who coerces, threatens, intimidates or harasses a tenant or landlord to deter the tenant or landlord from making an application under this Act, or in retaliation for seeking or obtaining a remedy under this Act, commits an offence and is liable, on conviction, to a fine of not more than $5000.

(4) A person who gives false or misleading information in an arbitration proceeding under this Act commits an offence and is liable, on conviction, to a fine of not more than $5000.

(5) A tenant or occupant who wilfully causes damage to the residential property commits an offence and is liable, on conviction, to a fine of not more than $5000.

(6) If a person commits an offence under this Act, the court, in addition to imposing a fine, may,

(a) if the offence arises out of a failure to pay money, order the person to pay the money, and

(b) if the person has contravened this Act, order the person to comply with or to cease contravening this Act.

(7) Section 5 of the *Offence Act* does not apply to this Act.

Limitation period: offences

88 A prosecution of an offence under this Act must not be commenced more than 2 years after the facts on which the proceeding is based first come to the knowledge of the director.

PART 7

APPLICATION OF OTHER LAW

***Frustrated Contracts Act* and conflicts with other law**

89 (1) [The *Frustrated Contract Act* and the doctrine of frustration of contract apply to tenancy agreements.?]

(2) [Subject to sections 48 [*Order for possession for landlord*] and 50 [*Order for possession for tenant*], if this Act conflicts with the *Statute of Frauds* or the *Land Title Act*, the *Statute of Frauds* or the *Land Title Act*, as the case may be, applies.?]

Court proceedings affecting tenants

90 Despite any other enactment, no order of a court in a proceeding involving a foreclosure, estate, matrimonial dispute or other proceeding that affects possession of residential property is enforceable against a tenant of the residential property unless the tenant was a party to the proceeding.

PART 8

THE TRANSITION, CONSEQUENTIAL AMENDMENTS AND COMING INTO FORCE

Division 1 – The transition

To be developed

Division 2 – Consequential amendments

To be developed. Amendments to be considered include:

Human Rights Code

Amend Code to add:

91 (1) A landlord must not discriminate against a tenant or prospective tenant based on a lawful source of income.

(2) Contravention of subsection (1) is discrimination under section 10 of the *Human Rights Code* and a person who alleges that he or she has been discriminated against on this basis may file a complaint under section 21 of the *Human Rights Code*.

Local Government Act* and *Vancouver Charter

92 Possible amendments to provide for regulation of leases for more than 20 years.

Small Claims Act

93 *Small Claims Act* amendment to be considered to remove from Small Claims Court jurisdiction disputes under this Act, if necessary.

Limitations Act

94 *Limitations Act* amendment to be considered to extinguish debts under this Act after 2 years.

Other Acts

95 Consequential amendments will be considered to other legislation as required.

Division 3 – Repeal and coming into force

Repeal

96 The *Residential Tenancy Act* is repealed.

Coming into force

97 This Act comes into force on _____.

PART II

MANUFACTURED HOME PARK SITE TENANCIES

KEY UNRESOLVED POLICY ISSUES

Manufactured home site tenancies differ in a number of significant ways from other types of residential tenancies. As manufactured home site tenants typically own their own homes, the tenancy relationship applies only to the rental of the site. Manufactured home owners also have a unique financial interest because of their investment in their homes.

As newer models of manufactured homes were not designed to be mobile, any move of the home entails significant expense. In some areas there is a shortage of manufactured home park sites to which homes can be moved. Many parks will take only new homes, or impose requirements that only newer homes are able to meet. It is the general practice for a home owner to sell his/her manufactured home along with the transfer of the existing site tenancy agreement, as a condition of sale.

For these reasons, manufactured home owners tend to remain in the park for many years. Under these circumstances, it is important to both home owners and park owners to develop and maintain a positive relationship.

1. Rent review:

The current rent review policy has been in place since 1994; it was simplified in 1999 after consultation with both park owners and home owners.

Rent review was created to prevent unjustifiable rent increases. Rent review applies only to existing site tenancies, and landlords may charge what the market will bear for new sites or tenancy agreements.

The park owner must give a written notice of a rent increase to the site tenant at least six months prior to the effective date, and the park owner can increase the rent no more than once in any 12-month period.

Unless the site tenant disputes the proposed rent increase, the increase goes into effect. If the site tenant disputes the proposed increase, the tenant can apply to the Chair of the Manufactured Home Park Dispute Resolution Committee for mediation of the dispute. Mediation is a mandatory first step in resolving rent increase disputes in manufactured home parks.

If mediation is not successful, the tenant may apply for an arbitrator to rule whether the proposed amount is justified. The arbitrator follows a process and a detailed set of criteria provided under the RTA and the *Manufactured Home Pad Rent Increase Regulation* to determine what would be a justifiable rent increase. The formula used for calculating the justifiable rent increase is based on variables that consider the change in

local government levies, the landlord's capital expenditures, and the inflation factor applicable to the relevant 12-month period.

Should the current system of rent review as described above be retained? If so, are there any changes that should be made to the rent review formula, or the process for resolving rent increase disputes? If not, is there a better model for protecting tenants from unreasonably high rent increases?

2. Pets in manufactured home parks:

The RTA is currently silent on the matter of pets in rental units. Park owners and home owners are encouraged by the Residential Tenancy Office to negotiate acceptable terms about the presence of pets.

The BC Court of Appeal and the BC Supreme Court have ruled that a blanket no-pets clause is not enforceable. Arbitrators and the court have upheld the landlord's right to restrict the type and number of pets, to ensure the safety and well-being of the landlord and/or other tenants, and to protect the landlord's property from abuse.

Should legislation be passed to regulate whether or not landlords can prohibit pets on manufactured home sites? Are there other options that would protect the landlord's property from damage and ensure the well being and safety of the landlord or other tenants, while supporting responsible pet owners in their search for a manufactured home site?

3. Long-term tenancies:

The RTA prohibits tenancies over 20 years unless such tenancies are approved by the municipality. This provision was intended to preserve conventional rental housing stock from conversion to a tenancy that resembled strata ownership.

The RTA does not have jurisdiction over tenancies in excess of 20 years. This prevents parties in long-term leases from accessing protections provided under the Act and, therefore, discourages parties from entering into long-term leases.

Should the proposed new Manufactured Home Park Tenancy Act permit tenancy agreements in excess of 20 years, to give home owners and park owners more flexibility to enter into longer-term agreements? If so, should municipal approval be required for long term tenancy agreements in manufactured home parks?

4. Security Deposits:

The RTA currently allows a landlord to require, at the start of a tenancy, a security deposit no greater than half of the first month's rent. The landlord is required to return the tenant's deposit and accumulated interest within 15 days of the end of the tenancy, unless the landlord obtains the written consent of the tenant, or the landlord applies for arbitration to retain the deposit.

If the landlord does not either return the deposit or apply for arbitration, the tenant can apply to the Director of the Residential Tenancy Office for an order that the landlord pay to the tenant the deposit and interest on the deposit. A Director's Order is enforceable in Provincial Court.

If the tenant vacates the site without paying the final month's rent, a security deposit of one half a month's rent is insufficient to cover the unpaid rent. Should landlords be permitted to require a security deposit of a full month's rent to cover unpaid rent or damages to the site? Should landlords who wrongfully withhold security deposits at the end of tenancies be subject to penalties for not having returned the deposits? Are there other options that would ensure landlords are compensated for unpaid rent or damages, while ensuring tenants receive their deposits back at the end of their tenancies?

5. Manufactured home park rules:

The RTA provides a regulation making power to prescribe standard park rules that would apply to all parks, or that would apply in certain cases, such as in a park that has no current rules in place. To date, no such standard park rules have been brought into force.

Contract law provides that a party cannot unilaterally alter a term of the contract. Consequently, a landlord cannot unilaterally change a term of a tenancy agreement (including a park rule), except as permitted by the RTA. In a few parks, local park committees have been established to develop and change park rules in accordance with the RTA.

Would a set of standard park rules be useful to park owners and home owners? Should park owners have the authority to establish or change park rules, and if so, under what circumstances? Should home owners have input to the rules in a park, and if so, what type of input? Should the landlord be able to change the park rules on the assignment of a tenancy agreement?

6. Age 55+ designation:

The *Human Rights Code* prohibits discrimination in residential tenancy, including manufactured home parks, on a number of grounds, including age and family status. This is to ensure that families with children are able to find adequate rental housing.

However, in order to allow senior citizens the right to live in seniors' communities if they choose, the *Code* allows landlords, including manufactured home park owners, to discriminate in renting on the basis of age or family status provided all units in the property are reserved for households where at least one person is age 55 or over. This allows park owners to designate their parks as seniors only, for example, or to allow younger people, including children, to live in the park as long as one member of the household is over 55.

Many suggestions have been made to amend the provisions of the *Code*. That is not something that can be done through this rewrite of residential tenancy legislation, but the issue has been raised with the Human Rights Commission. The *Code*, however, is

silent on the issue of how a park becomes designated as 55+ and this is an area that can be dealt with under the RTA.

Should there be legislation or regulations governing how a park is converted to or converted from a park for persons over the age of 55? If so, should park owners have to get the permission of home owners to convert the park either to a 55+ park, or to eliminate a 55+ requirement in a park?

7. Ending a tenancy for landlord use of property:

A landlord may give a tenant notice to end a tenancy if the landlord intends in good faith to occupy or use the premises or site for the purposes of demolishing, renovating or converting the site to another use.

The park owner must give the home owner at least 12 months notice to end a tenancy for landlord use of property, and must pay the home owner's actual and reasonable moving expenses up to a maximum of $10,000. Park owners are not required to pay the moving expenses until the home owner moves out, and gives the park owner a written account of the expenses.

Is the notice period and compensation payable for ending a site tenancy for landlord use of property appropriate and fair to both landlords and tenants? If not, what should the current provision be replaced with?

8. Mediation Process:

A Manufactured Home Park Dispute Resolution Committee (MHPDRC) was created in 1993 to administer a mediation process and to provide mediation services. Mediation became mandatory for all rent increase disputes in manufactured home park tenancies. Voluntary mediation was available for other manufactured home park tenancy disputes.

The model of mediation of disputes that was initially provided by the MHPDRC (a committee with representation from park and home owners, and a neutral mediator as chair) was replaced by a model of mediation provided by a sole mediator.

If a manufactured home owner receives a notice of a rent increase from the park owner, and the home owner believes the rent increase to be unjustified, the home owner is encouraged by the Residential Tenancy Office to talk to the park owner about their concerns. If the matter cannot be settled informally, a Residential Tenancy information officer can, with the permission of the home owner, contact the park owner to try to assist the parties to resolve the dispute.

If the dispute still cannot be resolved, the home owner can apply for mediation. If either party rejects the recommendations from the home park mediation, either may apply for arbitration to have an arbitrator determine what constitutes a justifiable rent increase.

Non-rent increase disputes can also be mediated, if the dispute is one that can be arbitrated under the RTA. Either the park owner or the home owner can apply for mediation.

Is the current mediation process efficient and effective at resolving disputes before they proceed to arbitration? Is the process fair, timely, and expert? Are there other options that could better help parties to reach a mutually acceptable solution to resolve their dispute?

9. Arbitration Process:

The RTA deems parties to a tenancy dispute to have submitted their dispute to binding arbitration under the process set out in the Act. Arbitrators are appointed by the Minister, and are designated by the Director of the Residential Tenancy Office to conduct arbitration hearings.

The RTA gives the Director the authority to establish rules of procedure for the conduct of arbitration hearings and arbitration reviews, and to publish decisions of arbitrators or otherwise make them publicly available.

Either a landlord or tenant may apply to the Director for review of an arbitration decision. The Director must designate the original arbitrator to review the application, unless the original arbitrator is not available or it would not be appropriate to do so. If grounds for review are established, an arbitrator may reconsider their original arbitration decision based on the written submissions, or may hold a new hearing. There are three grounds for review of an arbitration decision:

- the party could not attend the original hearing due to circumstances that could not be anticipated and were beyond his/her control,
- the party has new and relevant evidence that was not available at the time of the original hearing,
- the original arbitration decision was obtained by fraud.

A landlord or tenant may apply to the Supreme Court of BC for a petition for judicial review of an arbitration or arbitration review decision, under the *Judicial Review Procedures Act*.

Is the current arbitration process efficient and effective in resolving disputes between landlords and tenants? Is the process for review of arbitration decisions fair, timely, and expert, and does it provide the desired finality to the dispute resolution process? Are there improvements that could be made to the arbitration and arbitration review processes to better serve landlords and tenants?

10. Enforcement of the Act:

There are some actions taken by landlords and tenants that could constitute an offence under the RTA. For example, it is an offence under the RTA for the landlord or tenant to unilaterally alter the means of access to the rental property, for the landlord to require the tenant to forfeit the security deposit at the end of a tenancy, or for the landlord to discontinue providing services or facilities. It is also an offence under the RTA to cause deliberate damage to property, to give false or misleading information at an arbitration proceeding, to fail to comply with an arbitrator's order, or to intimidate or harass a tenant

or landlord because he/she was seeking a remedy under the RTA. Upon conviction, a landlord or tenant may be fined up to $5,000 for each offence.

Enforcement falls under the *Offence Act* and is the responsibility of law enforcement agencies including municipal police, RCMP and Crown Counsel. As this is a civil, rather than criminal matter, the onus is on the complainant to initiate action.

Is the current enforcement process effective at ensuring compliance with the Act? In addition to prosecution, are there other options to better ensure compliance with the Act, and meaningful consequences for landlords and tenants who contravene the Act?

Appendix B

Plain Language Draft

Manufactured Home Park Tenancy Act

PLAIN LANGUAGE DRAFT

of

MANUFACTURED HOME PARK TENANCY ACT

DISCUSSION DRAFT

October 2001

MANUFACTURED HOME PARK TENANCY ACT

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DISCUSSION DRAFT

MANUFACTURED HOME PARK TENANCY ACT

Definitions

1 (1) In this Act

"arbitrator" means an arbitrator designated under section 60 [*Arbitrator's designation*];

"director" means the director appointed under section 83 [*Director's appointment]*;

"landlord" includes

(a) the owner or other person permitting occupation of a manufactured home site,

(b) the heirs, assigns, personal representatives and successors in title of the owner or other person permitting occupation of the manufactured home site, and

(c) [a person who is entitled to possession of the manufactured home site, other than the tenant of it?];

"manufactured home" means a structure, whether ordinarily equipped with wheels or not, that is designed, constructed or manufactured to be moved from one place to another by being towed or carried, and that is used or designed to be used as a permanent or temporary residence;

"manufactured home site" means land rented as a site for a manufactured home;

"manufactured home park" means a manufactured home park created under section 6 [*Creation of manufactured home parks*];

"park rules" means manufactured home park rules adopted under section 8 [*Park rules*];

"reasonable rules" means park rules that are reasonable as described by section 15 [*Reasonable terms and reasonable rules*];

"reasonable term" means a term of a site tenancy agreement that is reasonable as described in section 15 [*Reasonable terms and reasonable rules*];

"rent" means anything paid or given or any service provided by a tenant to the landlord in return for the right to occupy a manufactured home site and benefit from any service or facility, but does not include

(a) a security deposit, or

(b) a utility charge paid directly to the utility by the tenant;

"security deposit" means money given by a tenant to a landlord to provide the landlord with money at the start of a site tenancy agreement that is available to

pay for any liability or obligation of the tenant at the end of the site tenancy agreement;

"service or facility" means any service or facility provided by a landlord to a tenant, for example,

(a) water, sewage, electrical, lighting, roadway or other facilities;

(b) utilities and related services;

(c) parking and storage areas;

(d) recreation facilities;

"site tenancy agreement" means a rental agreement to which this Act applies – see sections 2 and 3;

"tenant" includes

(a) a person who pays rent in return for the right to occupy a manufactured home site, and

(b) the tenant's heirs, assigns and personal representatives.

(2) When the context requires, **"landlord"** includes a former landlord and **"tenant"** includes a former tenant.

(3) A reference to "**this Act**" includes regulations made under this Act.

(4) Examples used in this Act

(a) are intended to help illustrate a range of meanings a word or phrase can have,

(b) are not intended to restrict the ordinary meaning of the word or phrase they illustrate, and

(c) are not exhaustive.

PART 1

WHAT THIS ACT DOES AND DOES NOT APPLY TO

What the Act applies to

2 (1) This Act applies to

(a) an agreement to rent a manufactured home site for residential purposes, including a site made available to an employee during employment, and

(b) manufactured home parks.

(2) This Act applies whether the site tenancy agreement was entered into before or after this Act comes into force, except as otherwise stated in this Act.

What the Act does not apply to

3 This Act does not apply to

(a) an agreement to rent sites for recreational vehicles, or travel trailers, that are primarily intended for recreational use;

(b) an agreement to rent a manufactured home site when the site and the manufactured home are rented under a single agreement;

(c) any agreement or arrangement about manufactured home parks or manufactured home sites that is exempted by the regulations.

This Act cannot be avoided or contradicted

4 (1) Landlords and tenants cannot avoid or contract out of this Act.

(2) Any attempt to avoid or contract out of this Act has no effect.

(3) If a site tenancy agreement and this Act conflict or are inconsistent, the conflicting or inconsistent terms of the site tenancy agreement have no effect.

(4) This Act applies despite any common law to the contrary.

Persons under 19-years old can be tenants

5 A person under-19-years old may enter into a site tenancy agreement as a tenant and the agreement and this Act are enforceable by and against that person despite section 19 of the *Infants Act*.

PART 2

MANUFACTURED HOME PARKS

Creation of manufactured home parks

6 A manufactured home park is created at any location in which a landlord rents or offers to rent one or more manufactured home sites.

Establishment of park committees

7 (1) In accordance with the regulations, a landlord and tenants may establish a manufactured home park committee.

(2) Representatives on a manufactured home park committee, and the committee, must follow the regulations.

Park rules

8 Please refer to consultation document

PART 3

MANUFACTURED HOME SITE TENANCY AGREEMENTS

Division 1 – Creating a site tenancy agreement

How to create a site tenancy agreement

9 (1) A site tenancy agreement must be in writing, but if it is not the site tenancy agreement is still effective and enforceable.

(2) The landlord is responsible for putting the site tenancy agreement in writing.

Written site tenancy agreements

10 (1) A written site tenancy agreement must

(a) be dated and signed by the landlord and the tenant, and

(b) be legible and written in readily understandable language and form.

(2) The landlord must give the tenant a copy of any written site tenancy agreement within 21 days after it has been signed by them both.

(3) If the site tenancy agreement is in writing, the tenant need not pay rent until the tenant receives their copy of the agreement, at which time all unpaid rent must be paid.

Contents and effect of site tenancy agreements

11 (1) A written site tenancy agreement must include

(a) the legal names of the landlord and the tenant;

(b) the address of the manufactured home site, including the site number;

(c) the address to which notices to the landlord must be sent, and the landlord's contact telephone number;

(d) the address to which notices to the tenant must be sent, if not the manufactured home site, and the tenant's contact telephone number;

(e) the date on which the site tenancy agreement starts;

(f) the area of the site, and its boundaries measured from a fixed point of reference;

(g) the basis on which a manufactured home site is rented, whether

(i) month-to-month or year-to-year or on some other basis, or

(ii) for a fixed length of time, in which case the site tenancy agreement must state the date the term ends and also state that if a new site tenancy agreement is not agreed to before the end of the current agreement, the site tenancy agreement continues on a month-to-month basis;

(h) the amount of the rent and when it must be paid;

(i) the services or facilities included in the rent;

(j) the amount of the security deposit and when it was paid;

(k) the rights, obligations and prohibitions imposed on landlords and tenants by this Act, as set out in the regulations;

(l) any other reasonable terms – see section 15 [*Reasonable terms and reasonable rules*].

(2) The site tenancy agreement is effective and enforceable even though it does not include an item listed in subsection (1).

(3) A landlord and tenant must follow their site tenancy agreement and this Act.

Fixed term site tenancy agreements

12 (1) [A site tenancy agreement that is stated to end on a fixed pre-determined date does not in fact end on that date unless the landlord and the tenant enter into a new site tenancy agreement before it ends.

(2) If a landlord and tenant do not enter into a new site tenancy agreement and the tenant continues to occupy the manufactured home site after the stated end date of a fixed term site tenancy agreement, the agreement continues on a month-to-month basis.]

Liability for not following site tenancy agreement

13 (1) A landlord or tenant who does not follow a site tenancy agreement or this Act must compensate the other for damage or loss that results.

(2) The tenant or landlord entitled to claim compensation must do what they can to minimize their damage or loss.

Who the site tenancy agreement is enforceable against

14 (1) A site tenancy agreement and this Act are enforceable by and against

(a) the landlord and a person having a legal interest in the manufactured home site, and

(b) the person actually occupying the site, whether the tenant or not.

(2) However, subsection (1) does not affect the rights and liabilities of the landlord and tenant under the site tenancy agreement or under this Act.

Reasonable terms [and reasonable rules]

15 (1) Every term of a site tenancy agreement [and every park rule] must be reasonable and relate to

(a) the tenant's use, occupation or maintenance of a manufactured home site or the manufactured home park, or

(b) the use of a service or facility provided for a manufactured home site.

(2) To be reasonable, [in the absence of evidence to the contrary?]

(a) the term [or rule] must

(i) promote fair distribution of a service or facility,

(ii) promote the convenience, safety, and welfare of people living or working in the manufactured home park, or

(iii) protect the landlord's property from damage, and

(b) the term [or rule] must reasonably relate to the purpose for which it is intended and clearly inform the tenant of what must or must not be done.

(3) A term of a site tenancy agreement is not a reasonable term if

(a) the agreement requires that a manufactured home be purchased from a specific seller, unless the term is brought to the attention of the prospective tenant before the site tenancy agreement is signed by the tenant, or

(b) the agreement provides for all or part of rent remaining for the period of the site tenancy agreement becoming payable if a term of the agreement is not followed.

(4) A term of a site tenancy agreement that is not reasonable has no effect.

Alterations and additions to site tenancy agreement

16 A site tenancy agreement may only be changed or added to if both landlord and tenant agree and the addition or change is a reasonable term – see section 15.

Division 2 – Joint inspection report and security deposits

Start of tenancy – condition of site report

17 (1) The landlord and tenant must jointly inspect the manufactured home site, and any areas that are not shared with other tenants, on the day the site tenancy agreement starts or on another mutually agreed day.

(2) The landlord must record on the form approved for use by the director

(a) the date of inspection;

(b) the general condition of the site and anything on it;

(c) any damage or items in need of repair, and

(d) any other information required by the director.

(3) Both the landlord and tenant must sign the inspection report and the landlord must provide the tenant with a copy of it within 21 days after it is signed.

Amount of security deposit

18 (1) A tenant may only provide and a landlord may only accept money as a security deposit and the amount must not exceed the equivalent of ½ the first month's rent.

(2) If the landlord receives as a security deposit more than the permitted amount, the tenant may deduct the amount overpaid from future rent.

Security deposits: landlord's obligations

19 (1) A landlord must not

(a) require a security deposit at any time other than at the start of a site tenancy agreement;

(b) require or receive more than one security deposit for each manufactured home site;

(c) require a security deposit to be automatically paid to the landlord at the end of a site tenancy agreement.

(2) The landlord must repay the security deposit to the tenant, with interest calculated as described in the regulations, within 15 days after the site tenancy agreement ends unless

(a) the tenant agrees in writing at the end of the site tenancy agreement to allow the landlord to keep all or part of the security deposit to pay any liability or obligation of the tenant,

(b) the landlord files with the director an application for arbitration claiming all or part of the security deposit and interest, or

(c) an arbitrator has ordered the tenant to pay money to the landlord.

Security deposits: tenant's obligations

20 (1) A tenant must pay the landlord the security deposit at the time it is required to be paid by the site tenancy agreement.

(2) A tenant may not use the security deposit as rent, unless the landlord consents.

Security deposits: missing tenants

21 A landlord may keep a security deposit if

(a) at the end of a site tenancy agreement the landlord is unable to locate the tenant, and

(b) the tenant does not claim the security deposit within 2 years after the end of the site tenancy agreement.

Division 3 – Rent and use of manufactured home sites

Rent

22 (1) A tenant must pay rent at the times stated in the site tenancy agreement.

(2) After a site tenancy agreement starts, the tenant must pay rent, and all other terms of the site tenancy agreement apply, even though the tenant does not move on to the site.

(3) A tenant must still pay rent even though the tenant considers the landlord to have seriously or significantly broken the site tenancy agreement.

(4) A landlord must not

(a) take any personal property, or deny the tenant access to their personal property, even if rent is not paid;

(b) require the tenant to provide post-dated cheques for rent, unless an arbitrator so orders;

(c) increase rent except in accordance with Part 4 [*Rent Increases*].

Additional fees and charges

23 A landlord must not impose on a tenant or require the tenant to pay any park, development or similar fees, in addition to the rent.

Services or facilities

24 A landlord must not

(a) take away or restrict a service or facility or make the tenant pay extra for a service or facility that is included in the rent, or

(b) take away or restrict a service or facility that is related to a manufactured home site, even though it is not specifically mentioned in the site tenancy agreement.

Protection of privacy and use of a manufactured home site

25 (1) A tenant is entitled

(a) to reasonable privacy;

(b) not to be unreasonably disturbed;

(c) to use the manufactured home site for ordinary purposes free from significant interference;

(d) to exclusive use of the manufactured home site, except for the right of the landlord to enter the site in accordance with section 26 [*Landlord's right to enter a manufactured home site*] or an arbitrator's order.

(2) In a manufactured home park, a tenant must not

(a) interfere with, or disturb, in any significant way other tenants or permanent occupants, the tenant's invited guests, or the landlord;

(b) jeopardize the health or safety of other tenants, permanent occupants, the tenant's invited guests, or the landlord, or put the landlord's property at risk;

(c) engage in activity prejudicial to the landlord.

Landlord's right to enter a manufactured home site

26 A landlord must not enter a manufactured home site unless

(a) the tenant gives permission at the time of entry or not more than 30 days before entry;

(b) the landlord gives the tenant between 24 and 72 hours written notice before entering stating in the notice

(i) a justifiable reason for entering the site, and

(ii) the date and the time of entry which must be between 8a.m. and 9p.m., unless the tenant otherwise agrees;

(c) the landlord has an arbitrator's order authorizing entry;

(d) the tenant has abandoned the site;

(e) it is an emergency and entry is necessary to protect life or property.

Occupants and invited guests

27 (1) A landlord must not prohibit or restrict the tenant, permanent occupants or the tenant's invited guests from entering the manufactured home park or a manufactured home site, except in accordance with an arbitrator's order.

(2) A landlord must not restrict entry to a manufactured home park or to a manufactured home site of candidates seeking election to a federal, Provincial, regional, municipal or school board office, or their authorized representatives, who are canvassing electors or distributing election material.

Entry and access to manufactured home parks

28 Neither the landlord nor the tenant may change a means of access or entry to a manufactured home park so as to unreasonably interfere with the other's access or entry.

Health and safety, maintenance and repair

29 (1) A landlord must

(a) maintain the services and facilities of the manufactured home park in a reasonable state of repair, and

(b) follow housing, health and safety standards that are required by law.

(2) A tenant must keep the manufactured home site reasonably tidy and maintain ordinary health and sanitary standards on the site.

(3) A tenant must repair damage to the manufactured home site or the manufactured home park that they, permanent occupants, or the tenant's invited guests cause, whether deliberately or accidentally.

(4) A tenant does not have to make repairs for reasonable wear and tear to the manufactured home site.

Emergency repairs

30 (1) For the purpose of this section "**emergency repairs**" are repairs that are both urgent and necessary for the health or safety of persons, or are necessary to preserve property, and are limited to repairs to

(a) major leaks in pipes, and

(b) damaged or blocked water or sewer pipes.

(2) The landlord must post the name and telephone number of a contact person for emergency repairs.

(3) If an emergency repair is needed, a tenant must make at least two attempts to notify the person designated by the landlord to contact about the repair and give the landlord time to do the repair.

(4) If the emergency repair is not done, the tenant may do the repair and deduct the cost from the next month's rent, but only if the tenant accounts to the landlord for the cost and gives receipts justifying the cost.

(5) The landlord may take over completion of the emergency repair at any time.

(6) The landlord must reimburse the tenant for the tenant's costs in doing emergency repairs, except costs that an arbitrator finds to be

(a) not for emergency repairs,

(b) for emergency repairs for which the tenant did not try to contact the emergency repair contact person or has no receipts for the costs,

(c) for more than a reasonable cost for the emergency repair, or

(d) for emergency repairs for damage caused primarily by the tenant, permanent occupants or the tenant's invited guests.

Assignment and subletting

31 (1) A tenant may only assign or sublet a site tenancy agreement in accordance with the regulations.

(2) An assignment or sublet of a site tenancy agreement is of no effect unless

(a) the landlord gives written consent before the assignment or sublet occurs,

(b) the landlord's consent is, by the regulations, conclusively considered to have been given, or

(c) an arbitrator orders the site tenancy agreement assigned or sublet.

Leaving a manufactured home site

32 When a tenant moves out of a manufactured home site at the end of a site tenancy agreement, the tenant must

(a) leave the site reasonably tidy and undamaged, other than for reasonable wear and tear;

(b) give the landlord any keys that allow access to the manufactured home park.

Arbitration of disputes

33 (1) Any dispute about a site tenancy agreement or this Act may be referred to arbitration unless

(a) the Supreme Court, on application, orders that the matter is not to be referred to arbitration or subject to arbitration, or

(b) the claim is for more than the monetary limit for claims under the *Small Claims Act*, in which case the claim is not to be subject to arbitration under this Act.

(2) If the Supreme Court considers a dispute under this Act, it has all the authority that an arbitrator may exercise under this Act.

Division 4 – At the end of a site tenancy agreement

End of tenancy – condition of site report

34 (1) The landlord and tenant must jointly inspect the manufactured home site at the end of a site tenancy agreement or on another mutually agreed day.

(2) The landlord must record on the form approved for use by the director

(a) the date of inspection;

(b) the general condition of the site and anything on it;

(c) any damage or items in need of repair;

(d) if agreed by the landlord and tenant, the amount to be deducted from the tenant's security deposit;

(e) any other information required by the director.

(3) The landlord may complete the inspection and the report without the tenant if the tenant has abandoned a manufactured home site or if the tenant does not take part in an inspection offered by the landlord on at least 2 occasions

(a) on different days,

(b) on days that were not holidays, and

(c) between 8:00 a.m. and 9:00 p.m.

(4) Both the landlord and tenant must sign the inspection report and the landlord must give the tenant a copy as soon as possible after it is signed.

PART 4

RENT INCREASES

Notice of rent increases

35 (1) A landlord must not increase a tenant's rent until at least 12 months after

(a) the date the rent was last increased in accordance with this Act, or

(b) if the tenant's rent has not previously increased, the date that the tenant's rent was established.

(2) Subsection (1) applies even though the landlord of the manufactured home site changes.

(3) If the landlord is entitled to increase rent, the landlord must give the tenant at least 6 months notice of the date the rent increase is to be effective and the notice must be in the form approved for use by the director.

(4) If the landlord's notice to increase rent does not follow the time requirements of this section, the notice takes effect on the earliest date that would comply with this section.

Rent review

36 **To be developed following consultation.**

PART 5

HOW TO END SITE TENANCY AGREEMENTS

Division 1 – Ending site tenancy agreements

How site tenancy agreements end

37 A site tenancy agreement only ends if

(a) the tenant gives written notice in accordance with section 39 [*How a tenant ends a site tenancy agreement*];

(b) the landlord gives written notice for one or more of the reasons stated in this Division, in accordance with sections 40 to 49;

(c) the landlord and tenant agree in writing that the site tenancy agreement is at an end;

(d) the tenant abandons a manufactured home site and the landlord takes possession of it;

(e) the site tenancy agreement is for a fixed pre-determined expiry date and the tenant moves out of the manufactured home site on that date;

(f) the manufactured home site is destroyed or so damaged that it cannot reasonably be repaired;

(g) an arbitrator orders that a site tenancy agreement is at an end.

Contents and form of notices to end site tenancy agreements

38 To be valid, a notice to end a site tenancy agreement must

(a) be signed by the landlord or tenant giving the notice;

(b) give the address of the site;

(c) state the date the site tenancy agreement is to end;

(d) when given by a landlord, must be in the form approved for use by the director, and if it is not, the notice has no effect;

(e) when given by a tenant, must be in writing.

How a tenant ends a site tenancy agreement

39 (1) A tenant may end a site tenancy agreement by giving the landlord at least one month's notice to end the site tenancy agreement, to be effective on the day before rent is ordinarily payable.

(2) A tenant may also end a site tenancy agreement by giving the landlord notice

(a) that the tenant considers the landlord to have seriously or significantly broken the site tenancy agreement and describing why, and

(b) stating that the tenant has decided to end the agreement on a date stated in the notice, which must be on or after the day the notice is given to the landlord.

(3) The tenant's notice must include the items required by section 38 [*Contents and form of notices to end site tenancy agreements*].

Landlord's notice to end site tenancy agreement – non-payment of rent

40 (1) On any day after rent is unpaid, the landlord may give the tenant notice to end the site tenancy agreement stating the date the site tenancy agreement ends, which must be at least 10 days after the notice is given to the tenant.

(2) A notice to end the site tenancy agreement for non-payment of rent has no effect if the tenant has withheld or deducted from rent an amount permitted by this Act to be deducted or withheld.

(3) The landlord's notice must contain the items required by section 38 [*Contents and form of notices to end site tenancy agreements*].

End of site tenancy agreement for non-payment of rent: tenant's options

41 (1) After receiving a notice to end the site tenancy agreement for non-payment of rent, the tenant may, before the site tenancy agreement ends in accordance with the landlord's notice,

(a) pay the overdue rent, in which case the landlord's notice is of no effect, or

(b) file with the director an application for arbitration to dispute the landlord's notice and to extend the time to pay rent.

(2) If a tenant does not file an application under subsection (1) before the date the site tenancy agreement is stated to end in the landlord's notice, or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the site tenancy agreement ends on the date stated in the landlord's notice.

Landlord's notice to end site tenancy agreement: not following site tenancy agreement and other specific reasons

42 (1) A landlord may give the tenant notice to end a site tenancy agreement if

(a) the tenant does not pay the security deposit within 30 days of the date it was to be paid;

(b) the tenant is persistently late paying rent;

(c) there are more than a reasonable number of permanent occupants living on the manufactured home site;

(d) the tenant, in the manufactured home park in which the tenant lives,

(i) significantly interfered with or disturbed other tenants, permanent occupants or the landlord,

(ii) seriously jeopardized the health or safety of other tenants, permanent occupants or the landlord, or put the landlord's property at significant risk, or

(iii) engaged in activity seriously prejudicial to the landlord;

(e) the tenant does not repair extraordinary damage caused by the tenant, permanent occupants, or the tenant's invited guests, whether deliberately or accidentally;

(f) the tenant has not repaired damage to the manufactured home site or to the manufactured home park caused by the tenant, permanent occupants or the tenant's invited guests, whether deliberate or accidental, that is more extensive than reasonable wear and tear, after having been given written notice by the landlord to do so;

(g) the tenant attempts to assign or sublet a site tenancy agreement without first getting the landlord's written consent, or fails to follow the regulations;

(h) the tenant

(i) has not followed a reasonable term of the site tenancy agreement [or a reasonable park rule,] and the failure to do so is serious or significant, and

(ii) has not corrected the situation within a reasonable period of time after having been given written notice by the landlord to do so;

(i) the tenant deliberately told a prospective tenant or prospective purchaser something about the manufactured home site or the manufactured home park that was not true;

(j) a manufactured home site rented to the tenant must be vacated to comply with an order of a Provincial, regional or municipal government authority.

(2) The landlord's notice must include

(a) the items required by section 38 [*Contents and form of notices to end site tenancy agreements*];

(b) the reason for ending the site tenancy agreement, and

(c) the date the site tenancy agreement ends which, unless subsection (3) applies, must be at least one month after the notice is given to be effective on the day before rent is ordinarily payable.

(3) If the landlord gives notice to end a site tenancy agreement because

(a) the number of permanent occupants on a manufactured home site has increased due to the adoption or birth of a child or children, and

(b) the number of permanent occupants on a manufactured home site has become unreasonable,

the date the site tenancy agreement ends must be at least 24 months after the notice to end the site tenancy agreement is given to the tenant, to be effective on the day before rent is ordinarily payable.

(4) A tenant may apply to cancel a notice to end a site tenancy agreement given under this section by filing with the director an application for arbitration within 10 days after the date the notice is given to the tenant.

(5) If the tenant does not apply to cancel the landlord's notice before the tenancy agreement is stated to end in the landlord's notice, or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the site tenancy agreement ends on the date stated in the landlord's notice.

Notice to end site tenancy agreement – landlord's use of property

43 (1) In this section

(a) **"close family"** means an individual's father, mother, spouse, child, or the father, mother or children of that person's spouse;

(b) **"family corporation"** means a corporation in which all the voting shares are owned by

(i) one individual, or

(ii) one individual plus one of more of his or her close family or brother or sister.

(2) If a notice to end a site tenancy agreement is given under subsections (3) to (6), the landlord must give a tenant at least 12 month's notice to end a site tenancy agreement, to be effective on a date rent is ordinarily paid and the notice must include the items required by section 38 [*Contents and form of notices to end site tenancy agreements*].

(3) A notice under subsection (2) may be given

(a) if the landlord or a close family member of the landlord intends in good faith to occupy the manufactured home site occupied by a tenant, or

(b) if the landlord is a family corporation, a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the manufactured home site occupied by a tenant.

(4) A notice under subsection (2) may be given if the landlord in good faith enters into an agreement to sell a manufactured home site occupied under a site tenancy agreement, and

(a) the conditions on which the sale depends have been satisfied,

(b) either

(i) the purchaser or a close family member of the purchaser intends in good faith to occupy the manufactured home site, or

(ii) if the purchaser is a family corporation, a person owning voting shares in the corporation, or a close family member of that person, intends in good faith to occupy the manufactured home site, and

(c) the purchaser requests the landlord to give a notice to end the site tenancy agreement.

(5) A notice under subsection (2) may be given if the landlord has all the necessary permits and approvals required by law and

(a) intends in good faith to demolish the manufactured home site, or

(b) intends to convert the manufactured home site to a strata title under the *Strata Titles Act*.

(6) A notice under subsection (2) may be given if the landlord has all the necessary permits and approvals required by law and intends, in good faith, for at least 6 months,

(a) to use the manufactured home site for a person employed as a caretaker or manager, or

(b) to use the manufactured home site for non-residential purposes.

Application to dispute a section 43 notice

44 (1) A tenant may apply to cancel a notice to end a tenancy given under section 43 [*Landlord's use of property*] by filing with the director an application for arbitration within 15 days after the notice is given to the tenant.

(2) If a tenant does not file a notice to cancel the landlord's notice within the time required by subsection (1), or within any extension of time permitted by an arbitrator, the tenant conclusively accepts that the site tenancy agreement ends on the effective date of the notice.

Tenant may end site tenancy agreement early

45 (1) If a landlord gives a tenant notice to end a site tenancy agreement under section 43 [*Landlord's use of property*], the tenant may, at any time during the period of the landlord's notice,

(a) give the landlord at least 10 days' written notice to end the site tenancy agreement on a date that is earlier than the date specified by the landlord, and

(b) pay the landlord, on the date the tenant's notice is given, the proportionate amount of rent due up to the date the site tenancy agreement is to end as stated in the tenant's notice, unless subsection (2) applies.

(2) If a tenant paid rent before giving a notice under subsection (1), the landlord must repay the proportion overpaid.

(3) If the tenant ends the site tenancy agreement early under this section, nothing affects the tenant's right to compensation or moving expenses.

Tenant's moving expenses

46 (1) After moving a manufactured home from a manufactured home site because of a notice to end a tenancy given under section 43 [*Landlord's use of property*], the landlord must pay the tenant the tenant's actual and reasonable moving expenses, up to $10,000.

(2) The expenses must be paid without delay after the landlord receives the tenant's receipts for moving expenses.

Tenant's compensation for moving

47 (1) After moving out of a manufactured home site because of a landlord's notice under section 43, [*Landlord's use of property*] the tenant may apply for compensation by filing with the director an application for arbitration within 9 months after the end of the site tenancy agreement to which the application relates.

(2) An arbitrator may make an order under subsection (3) if the tenant establishes

(a) the reasons for giving notice under section 43(3) [*Landlord's or family member's intention to occupy the manufactured home site*] did not occur, or were not given in good faith, or did not occur in accordance with the landlord's notice for 6 months or more starting within a reasonable time after the end of the tenancy agreement,

(b) the reasons for giving notice under section 43(4) [*Agreement for sale and intended occupation of the site*] did not occur or were not given in good faith, or occupation of the manufactured home site did not occur in accordance with the landlord's notice for 6 months or more starting within a reasonable time after the end of the site tenancy agreement, or

(c) the landlord did not demolish or convert the manufactured home site as stated in the landlord's notice under section 43(5) or (6), or the landlord did not have a good faith intention to do so.

(3) The arbitrator may order that the landlord or purchaser, as the situation warrants, pay the tenant

(a) any expenses incurred or that may be incurred by the tenant in addition to the moving expenses, and

(b) any increased rent or portion of it, up to 12 months from the date the tenant moved, or that the tenant was or may be required to pay.

(4) It is a defence to a claim for compensation under this section if the landlord or purchaser establishes that they acted in good faith at the time the notice to end the site tenancy agreement was served on the tenant.

Compensation may be payable if the tenant agrees to move out

48 If a landlord and tenant agree in writing to end a site tenancy agreement, compensation is payable to the tenant under sections 46 and 47 if the landlord

[subsequently] uses the manufactured home site for a purpose, or takes one of the actions described, in section 43 [*Landlord's use of property*].

Landlord's notice to end site tenancy agreement: employment-related reason

49 (1) A landlord may only give notice to end a site tenancy agreement of a manufactured home site rented or provided to a person employed as a caretaker or manager of a manufactured home park in which the manufactured home site is located if

(a) the tenant's employment as a caretaker or manager ends, and

(b) the landlord in good faith intends to rent or provide the site to a new caretaker or manager.

(2) Under subsection (1), the landlord must give at least one month to be effective on the day before rent is ordinarily payable, and the notice must include the items required by section 38 [*Contents and form of notices to end site tenancy agreements*].

(3) A tenant may apply to cancel a notice to end a tenancy under this section by filing with the director an application for arbitration within 10 days after the notice is given to the tenant.

(4) If the tenant does not apply to cancel the landlord's notice before the site tenancy agreement is stated to end in the landlord's notice, or within any extension of time permitted by an arbitrator's order, the tenant conclusively accepts that the site tenancy agreement ends on the date stated in the notice.

Correcting effective dates of notices

50 If a landlord or tenant gives notice to end a site tenancy agreement and the effective date is incorrect, the effective date is automatically changed as follows:

Problem with date specified	*Changed to*
Effective date is earlier than the effective date permitted by the Act.	Earliest permitted date.
Effective date is later than the earliest permitted effective date.	The day before the next date on which rent is ordinarily payable.
Effective date is one day later than the effective date permitted by the Act.	The preceding day.

Defective notices

51 (1) If a notice to end a site tenancy agreement is defective, the notice has no effect unless an arbitrator amends it, in which case it is enforceable in accordance with its amended terms.

(2) An arbitrator may amend a defective notice if satisfied that

(a) the notice did not contain information that it should have contained,

(b) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and

(c) in the circumstances, it is reasonable to amend the notice.

(3) A notice that is not signed has no effect.

Division 2 – Order for possession of a manufactured home site

Order for possession for landlord

52 (1) A landlord may apply for an order for possession of a manufactured home site by filing with the director an application for arbitration, or by making the application

(a) at the hearing of a tenant's application to cancel a notice to end a site tenancy agreement,

(b) at any time after a notice to end a site tenancy agreement has been given by a tenant,

(c) if the landlord gave notice to end a site tenancy agreement, at any time after the earlier of

(i) the expiry of the applicable time to file an application to cancel a notice to end a site tenancy agreement, or

(ii) the time an application to cancel a notice is filed with the director, or

(d) at any time after the landlord and tenant agree in writing that the site tenancy agreement is ended.

(2) An arbitrator may grant an order for possession before or after the date when the tenant is required to move out of a manufactured home site, to be effective on the date specified in the order.

Early possession for landlord

53 (1) A landlord may apply for an order for early possession of a manufactured home site by filing with the director an application for arbitration for an order that:

(a) a site tenancy agreement end on a specified date earlier than it would end if a notice to end the site tenancy agreement were given under this Act, and

(b) possession of a manufactured home site be granted to take effect on or after that day.

(2) An arbitrator may only make an order for early possession under this section if satisfied that

(a) the tenant has

(i) significantly interfered with or disturbed other tenants, permanent occupants or the landlord,

(ii) jeopardized the health or safety of other tenants, permanent occupants or the landlord, or put the landlord's property at significant risk,

(iii) caused extraordinary damage to a manufactured home site or manufactured home park, or

(iv) engaged in activity seriously prejudicial to the landlord, and

(b) it would be unfair or unreasonable to the landlord or other tenants to wait for a notice to end the site tenancy agreement to take effect.

(3) If an order is made under this section the landlord does not need to give the tenant notice to end the site tenancy agreement.

Order for possession for tenant

54 (1) A tenant or prospective tenant may apply for an order for possession of a manufactured home site by filing with the director an application for arbitration.

(2) An arbitrator may grant an order for possession to the applicant before or after the site tenancy agreement starts, to be effective no earlier than the date the agreement starts.

What happens if a tenant does not leave after a notice to end the site tenancy agreement takes effect

55 (1) If a tenant does not leave a manufactured home site after a site tenancy agreement has ended, the landlord may only take actual possession of the site under a writ of possession obtained under the *Supreme Court Rules*.

(2) If a landlord or tenant gives notice to end the site tenancy agreement in accordance with this Act and the tenant continues to occupy the manufactured home site after the effective date of the notice, the landlord may claim from the tenant compensation for the period the tenant continues to occupy the site.

(3) If a landlord is entitled to claim compensation and a person brings proceedings against the landlord to enforce their right to possess the manufactured home site occupied by the tenant, the landlord may add the tenant as a party to the proceedings.

PART 6

RESOLVING DISPUTES

Division 1 – Administration of the arbitration system

Appointment of arbitrators

56 (1) The Minister may appoint arbitrators for the purposes of this Act.

(2) Arbitrators are to be paid the fees specified by the Minister and must be reimbursed for any actual and reasonable travelling and living expenses incurred in the performance of their duties.

(3) Arbitrators appointed by the Minister are not employees of the Government.

Rules of procedure and code of conduct

57 (1) The director may

(a) make rules of procedure for the conduct of arbitrations;

(b) establish a code of conduct for arbitrators.

(2) The rules of procedure and code of conduct must be readily available to the public.

Division 2 – Arbitration proceedings

Starting arbitration proceedings

58 (1) An arbitration proceeding is started by either a landlord or a tenant

(a) filing with the director an application for arbitration in the form approved for use by the director, and

(b) paying the fee specified in the regulations.

(2) A copy of the application must be sent to the other party or parties by the person filing the application within 3 days of the filing.

(3) The director need not collect the fee if the director is satisfied

(a) the applicant cannot reasonably afford it, or

(b) circumstances warrant no fee being collected.

(4) The director may refuse to accept an application for arbitration if the applicant has not paid any past fee owing by the applicant to the director.

Latest time arbitration applications can be filed

59 If this Act does not state a time by which an application for arbitration must be filed, it must be filed within 2 years of the end of a site tenancy agreement to which the matter relates, or else the application is of no effect.

Arbitrator's designation

60 (1) When an application for arbitration is properly completed and filed, the director must designate an arbitrator to have jurisdiction over the dispute.

(2) The director may schedule two or more matters for one proceeding and specify the time, date and place of the hearing.

(3) When circumstances warrant, the director may reassign a dispute to another arbitrator.

Consolidation or separation of disputes

61 (1) The director may consolidate or separate two or more matters referred to arbitration when it would be convenient and appropriate to do so.

(2) When one or more matters are referred to an arbitrator, the arbitrator may consolidate the matters into one dispute when it would be convenient and appropriate to do so and the subject matters raise substantially the same issue in substantially similar circumstances, or separate them into separate matters when the situation warrants.

Arbitrator's jurisdiction

62 (1) An arbitrator has jurisdiction over

(a) disputes referred by the director to the arbitrator, and over any matter related to that dispute, and

(b) any other matter agreed to by the parties that arises under a site tenancy agreement or this Act.

(2) An arbitrator may dismiss an application if

(a) there are no reasonable grounds for the application,

(b) the application does not disclose a dispute that can be arbitrated, or

(c) the application is frivolous or an abuse of the arbitration process.

Arbitrator's role

63 The arbitrator must

(a) be independent of the parties, and

(b) treat the parties impartially.

Disclosure of possible bias

64 An arbitrator must disclose to parties any circumstances of which the arbitrator is aware that may give rise to a reasonable apprehension of bias.

Arbitrator's jurisdiction ending

65 An arbitrator's jurisdiction over a matter ends if

(a) the arbitrator resigns from the dispute for which they are the designated arbitrator, or

(b) the matter is reassigned by the director from one arbitrator to another.

How proceedings can be conducted

66 (1) The arbitrator may conduct proceedings

(a) in a hearing;

(b) by documents only;

(c) by electronic communication, telephone conference or video conference;

(d) by any combination of these methods.

(2) The arbitrator may administer oaths, affirmations and declarations.

Rules of procedure

67 An arbitrator decides the procedure for an arbitration and is to follow the director's rules of procedure.

Rules of evidence do not apply

68 An arbitrator is not bound by the rules of evidence or other law applicable to judicial proceedings and decides on the admissibility, relevance, and weight of evidence.

Limit on evidence that can be required

69 No person is to be compelled to produce information, property or give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

Settlement opportunities

70 (1) An arbitrator may, if the parties consent, assist the parties or offer the parties an opportunity to settle their dispute.

(2) If the parties settle their dispute during arbitration proceedings, the arbitrator may record the settlement in the form of a decision and order, or make a decision and order.

Summons to attend and produce

71 (1) On request or on their own initiative, an arbitrator may summons a person

(a) to attend a hearing or proceeding with documents or other evidence and give evidence about them;

(b) to attend a hearing or proceeding and give evidence.

(2) If a person does not comply with a summons to attend or a summons to attend and produce documents, on application to the Supreme Court that person is liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.

Arbitrator's authority

72 (1) Arbitrators are to make their decisions and orders on the merits of the matter before them and are not required to follow other arbitration decisions.

(2) An arbitrator may

(a) deal with any procedural issue that arises;

(b) make interim or temporary orders;

(c) extend or modify time limits imposed by this Act, but only if special circumstances exist;

(d) amend or permit an application for arbitration to be amended to correct a mistake or inadvertent omission.

(3) An arbitrator may in addition to any other authority given by this Act

(a) make any order necessary to enforce a site tenancy agreement, this Act or park rules;

(b) order a party or parties to compensate any other party or parties, individually or jointly, or by apportioning liability for debt or damage for not following [park rules,] a site tenancy agreement or this Act, and the order may include aggravated damages;

(c) order anything required to be provided, done or not done by park rules, a site tenancy agreement or this Act be provided, done or not done;

(d) declare to be of no effect a term of a site tenancy agreement [or a park rule] that is not considered by the arbitrator to be a reasonable term [or reasonable rule].

(4) An arbitrator may, in accordance with this Act,

(a) order that a site tenancy agreement end on a date other than the date shown on the notice to end the site tenancy agreement;

(b) cancel a notice to end a site tenancy agreement if the notice does not follow this Act or cancellation is permitted by this Act.

(5) *Arbitrator's jurisdiction over rent increases – see consultation paper.*

(6) An arbitrator may make any other order the justice of the dispute warrants, and in particular may,

(a) order a tenant to pay rent to a named person to be held in trust or on conditions;

(b) order a tenant to deduct an amount from rent to be spent on a repair, service or facility, or on any other matter ordered by the arbitrator;

(c) order the landlord to provide a service or facility that is required by a site tenancy agreement or that is reasonably related to the tenant's use of a manufactured home site;

(d) order money paid or unpaid by a tenant to a landlord to be

(i) paid or repaid [with interest?] to follow this Act or the site tenancy agreement;

(ii) considered as a payment towards future rent,

(iii) deducted from rent payable, or

(iv) otherwise recovered or considered as a payment of an obligation or a liability of the tenant to the landlord;

(e) order personal property taken or received by a landlord contrary to this Act or a site tenancy agreement to be returned;

(f) order past or future rent reduced, equivalent to the reduced value of the site tenancy agreement, because the landlord failed to follow the site tenancy agreement, this Act, or an order of an arbitrator;

(g) order the landlord to return post-dated cheques taken for rent or other payments and order the landlord to pay any costs associated with cancelling post-dated cheques;

(h) order a site tenancy agreement assigned or sublet if the arbitrator decides that the landlord's consent has been unreasonably withheld.

(7) An arbitrator may suspend a landlord's right of entry under this Act – see section 26, or order that a right of entry be permitted on conditions set by the arbitrator, if the arbitrator is satisfied that the landlord

(a) improperly went on to a manufactured home site,

(b) gave a reason for going on to the site that was not true, or

(c) went on to the site for an improper purpose, at an unreasonable time, or in an unreasonable manner.

(8) An arbitrator may refuse to enforce all or any part of a written site tenancy agreement that is

(a) not legible, or

(b) not written in readily understandable language and form.

(9) An arbitrator may order payment or repayment of a filing fee by one party to another, or to the director.

Effect of arbitrator's decision

73 (1) A decision and order of an arbitrator is final and binding on the parties, except as otherwise provided by this Act – see section 75 [*Application for review of arbitrator's order or decision*].

(2) A decision and order must be in writing, signed and dated, and stating the reasons for it.

(3) A decision and order must be made within 30 days after the proceedings conclude, but if the decision and order is late, the arbitrator does not lose jurisdiction nor does it affect the validity of the decision or order.

Errors, omissions or clarification of decisions or orders

74 (1) An arbitrator

(a) may, with or without a hearing, and with or without the request of a party to the arbitration, correct typographical, arithmetic or other similar errors in the decision or order, and

(b) may, with or without a hearing, on the arbitrator's own initiative, or on the request of a party made within 15 days after the decision or order is given,

(i) clarify the decision or order, or

(ii) deal with an obvious error or inadvertent omission in the decision, or order.

(2) The request to an arbitrator by a party to an arbitration may be made without notice to any other party, but the arbitrator may require that any other party be given notice.

(3) An arbitrator must not act under this section unless the arbitrator considers it just and reasonable to do so in all the circumstances.

Division 3 – Review of arbitration orders and decisions

Application for review of arbitrators' order or decision

75 (1) A party to an arbitration may apply to the director for review of an arbitrator's order or decision.

(2) The director must designate the original arbitrator to review the application unless the original arbitrator is not available or the director considers it appropriate to designate a different arbitrator.

(3) An order or decision of an arbitrator may be reviewed on one or more of the following grounds:

(a) a party was unable to attend the original hearing due to circumstances that could not be anticipated and that were beyond their control;

(b) a party has new and relevant evidence that was not available at the time of the original hearing;

(c) a party has evidence that the arbitrator's order or decision was obtained by fraud.

(4) An application for review of an arbitrator's order or decision

(a) must be made in the form and manner approved by the director,

(b) may be made without notice to any other party, and

(c) must be accompanied by full particulars of the evidence on which the applicant intends to rely.

(5) A party to an arbitration may make an application under this section only once in respect of that arbitration.

Time limits for application to review

76 A party must make an application for review of an arbitrator's order or decision

(a) within 2 days after a copy of the order or decision is received by a party if the order or decision relates to

(i) the unreasonable withholding of consent by a landlord to an assignment or subletting by a tenant;

(ii) whether a landlord will be granted an order for early possession of a manufactured home site under section 53 [*Early possession for landlord*];

(iii) an application for an order for possession by a landlord under section 52 or a tenant under section 54;

(b) within 5 days after a copy of the order or decision is received by a party if the order or decision relates to

(i) an order to repair or maintain the manufactured home site or to provide a service or facility, or

(ii) payment of rent by the tenant to another person for the landlord;

(c) within 15 days after a copy of the order or decision is received by a party for any other matter.

Decision on application for review

77 (1) At any time after an application for review of an arbitrator's decision or order is made, the arbitrator designated to conduct the review may dismiss or refuse to consider the application for one or more of the following reasons:

(a) the issue raised by the application can be dealt with sufficiently by requesting a decision or order to be corrected, clarified or dealt with under section 74 [*Errors, ommissions or clarification of decisions or orders*];

(b) the application

(i) does not give full particulars of the matter submitted for review;

(ii) does not disclose sufficient grounds for the review;

(iii) discloses no grounds on which, even if the submission were accepted, the decision or order of the arbitrator would be cancelled or varied;

(iv) is frivolous or an abuse of process;

(c) the applicant does not pursue the application diligently or does not follow an order made during the review.

(2) A decision about whether an application discloses sufficient grounds for review may be based on the written submissions of the applicant alone.

(3) The reviewing arbitrator may order that the decision or order to be reviewed be suspended, with or without conditions, until the review has been completed and a decision given to the parties.

(4) Within 3 days of receiving a decision to proceed with the review, or as otherwise ordered by the reviewing arbitrator, the applicant must serve a copy of the decision, and any order giving effect to the decision to proceed with the review, on the other party.

Review of arbitrator's order or decision

78 (1) If the reviewing arbitrator decides that there are sufficient grounds to review the order or decision, the arbitrator may deal with the matter on its merits.

(2) The reviewing arbitrator may review the order or decision based solely on the record of the original arbitration and any written submissions of the parties.

(3) The reviewing arbitrator may confirm, vary or cancel the original order or decision.

(4) The reviewing arbitrator must give a decision in writing and with reasons.

Powers of reviewing arbitrator

79 The reviewing arbitrator has all the powers and duties of an arbitrator in an original arbitration.

Division 4 – Enforcement of arbitration orders

Arbitration orders filed in the Supreme Court

80 When a review of an arbitrator's decision or order is concluded, or the time limit to apply for a review is over, a decision or order (whether interim, temporary or final) may be filed in the Supreme Court and enforced as an order or judgment of the Supreme Court.

Arbitration orders filed in Provincial Court

81 (1) The following orders may be filed in the Provincial Court and enforced as an order or judgment of the Provincial Court:

(a) an arbitrator's order when a review of the arbitrator's decision or order is concluded or the time limit to apply for a review is over, if the order is for financial compensation or the return of personal property, and the amount required to be paid under the decision or order, or the value of the personal property, is $10,000 or less, excluding interest and costs, and

(b) the director's order that a landlord pay a security deposit, with interest and filing fee to a tenant – see section 86 [*Director's security deposit return orders*].

(2) If a director's order is filed in the Provincial Court and the order was made in the absence of a party, the judge may, on application of the absent party, amend or cancel the order.

***Commercial Arbitration Act* not applicable**

82 The *Commercial Arbitration Act* does not apply to an arbitration under this Act.

PART 7

ADMINISTRATION OF THE ACT, SERVICE OF DOCUMENTS, REGULATIONS AND OFFENCES AND PENALTIES

Division 1 – Administration of the Act

Director's appointment

83 A director must be appointed in accordance with the *Public Service Act* for the purposes of this Act.

Director's responsibilities

84 (1) The director is responsible for the administration and management of all matters and persons appointed under this Act.

(2) The director may delegate any of their powers or duties under the Act.

(3) The director may approve forms for the purposes of this Act.

(4) Deviations from a form approved by the director that do not affect its substance, and are not calculated to mislead, do not invalidate the form used.

Public information

85 The director may

(a) give information to landlords and tenants about their rights and obligations under this Act;

(b) help landlords and tenants resolve any dispute that can be or has been referred to arbitration;

(c) publish or arrange for the publication, or otherwise make available to the public, arbitration decisions or summaries of them.

Director's security deposit return orders

86 (1) A tenant may apply to the director, without notice to the landlord, for an order that the landlord return the tenant's security deposit, with interest, if the landlord

(a) has not returned the security deposit with interest as required by section 19 [*Security deposits: landlord's obligations*], and

(b) has not filed an application for arbitration to keep some or all of the security deposit.

(2) The application must be in the form satisfactory to the director and accompanied by any fee required to be paid under the regulations.

(3) The director may

(a) without a hearing, order the landlord to pay to the tenant the security deposit and interest, and any application fee paid by the tenant;

(b) amend or cancel the order.

(4) The director's order does not take effect until the landlord has been served with the order.

Division 2 – How to give or send documents to someone else

Rules for service of specific documents

87 (1) The following documents must be given, sent or served in accordance with subsection (2):

(a) the director's order to a landlord to pay a security deposit, interest and filing fee;

(b) an application for arbitration served by one party to the arbitration on another party;

(c) a decision to proceed with a review of an arbitrator's decision served by one party on another party.

(2) The documents listed in subsection (1) may only be given, sent or served on a person:

(a) by leaving a copy of the document with the person;

(b) if the person is a landlord, by leaving a copy of the document with an agent of the landlord;

(c) by sending a copy of the document by registered mail to the address at which the person resides, or if the person is a landlord, to the address at which the person carries on business as a landlord.

How to serve documents generally

88 All documents other than those referred to in section 87 [*Rules for service of specific documents*] that are required or permitted to be given to, sent, or served on a person under this Act must be served in one of the following ways:

(a) by leaving a copy of the document with the person;

(b) if the person is a landlord, by leaving a copy of the document with an agent of the landlord;

(c) by sending a copy of the document by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) by sending a copy of the document by ordinary mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(e) by leaving a copy of the document at the person's residence with an adult person who apparently resides with the person to be served;

(f) by leaving a copy of the document in a mailbox or mail slot at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(g) by attaching a copy of the document to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;

(h) by transmitting a copy of the document to the fax number provided as an address for service by the person to be served;

(i) by any other means of service specified in the regulations.

When documents are considered to have been received

89 (1) A document served is considered to have been received

(a) if served by mail, on the fifth day after mailing it,

(b) if served by fax, on the third day after faxing it,

(c) if served by attaching a copy of the document to a door or other place, on the third day after attaching it, or

(d) if served by leaving a copy of the document in a mail box or mail slot, on the third day after leaving it.

(2) An arbitrator may make the following orders:

(a) that a document must be served in a manner the arbitrator considers necessary;

(b) that a document has been sufficiently served for the purposes of this Act on a day the arbitrator decides;

(c) that a document not served in accordance with section 87 or 88 has been sufficiently given, sent or served for purposes of this Act if the person concerned receives it and is aware of its nature.

Division 3 – Regulations, Offences and Penalties

Regulation-making authority

90 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations:

(a) requiring landlords to post required information in specified locations;

(b) prescribing the rate of interest payable on security deposits;

(c) exempting or applying all or part of this Act to a person or property;

(d) respecting the rights and obligations of landlords and tenants that are the terms of a site tenancy agreement;

(e) governing the process for obtaining the landlord's consent to the assignment or sublet of a manufactured home site, including procedures for providing that consent is given or withheld and related matters;

(f) prescribing, for breach of a regulation, a penalty not exceeding the penalty referred to in section 91 [*Offences and penalties*];

(g) prescribing the circumstances when a landlord may consider that a tenant has abandoned personal property, including a manufactured home, the manner in which a landlord may dispose of personal property abandoned by a tenant, how competing claims on the property are to be resolved, the circumstances in which the purchaser of abandoned personal property acquires a marketable title free of all encumbrances, how proceeds from disposing of the property are to be dealt with and imposing a duty of care on the landlord for that property;

(h) prescribing the manner in which any transition question or issue arising because of the repeal of the *Residential Tenancy Act* is to be resolved;

(i) defining a word or phrase used but not defined in the Act;

(j) respecting matters related to a review of arbitration decisions;

(k) prescribing fees for anything done or any service provided under this Act;

(l) respecting those matters for which the Act provides regulations may be made.

(3) *The Lieutenant Governor in Council regulations respecting rent review: to be subject to public consultation.*

(4) A regulation may apply generally or to a class of persons, accommodation, property or premises.

Offences and penalties

91 (1) A person who contravenes [sections XXXX] commits an offence and is liable, on conviction, to a fine of not more than $5000.

(2) A person who contravenes or fails to comply with a decision or order made by an arbitrator commits an offence and is liable, on conviction, to a fine of not more than $5000.

(3) person who coerces, threatens, intimidates or harasses a tenant or landlord to deter the tenant or landlord from making an application under this Act, or in retaliation for seeking or obtaining a remedy under this Act, commits an offence and is liable, on conviction, to a fine of not more than $5000.

(4) A person who gives false or misleading information in an arbitration proceeding under this Act commits an offence and is liable, on conviction, to a fine of not more than $5000.

(5) A tenant or occupant who wilfully causes damage to a manufactured home site commits an offence and is liable, on conviction, to a fine of not more than $5000.

(6) If a person commits an offence under this Act, the court, in addition to imposing a fine, may,

(a) if the offence arises out of a failure to pay money, order the person to pay the money, and

(b) if the person has contravened this Act, order the person to comply with or to cease contravening this Act.

(7) Section 5 of the *Offence Act* does not apply to this Act.

Limitation period: offences

92 A prosecution of an offence under this Act must not be commenced more than 2 years after the facts on which the proceeding is based first come to the knowledge of the director.

PART 8

APPLICATION OF OTHER LAW

[*Frustrated Contract Act* and conflicts with other law]

93 (1) [The *Frustrated Contract Act* and the doctrine of frustration of contract apply to site tenancy agreements.?]

(2) [Subject to sections 52 [*Order for possession for landlord*] and 54 [*Order for possession for tenant*], if this Act conflicts with the *Statute of Frauds* or the *Land Title Act*, as the case may be, applies.?]

Court proceedings affecting tenants

94 Despite any other enactment, no order of a court in a proceeding involving a foreclosure, estate, matrimonial dispute or other proceeding that affects possession of residential property is enforceable against a tenant of the residential property unless the tenant was a party to the proceeding.

PART 9

THE TRANSITION, CONSEQUENTIAL AMENDMENTS, AND COMING INTO FORCE

Division 1 – The transition

To be developed.

Division 2 – Consequential amendments

To be developed. Amendments to be considered include:

Human Rights Code

Amend Code to add:

95 (1) A landlord must not discriminate against a tenant or prospective tenant based on a lawful source of income.

(2) Contravention of subsection (1) is discrimination under section 10 of the *Human Rights Code* and a person who alleges that he or she has been discriminated against on this basis may file a complaint under section 21 of the *Human Rights Code.*

Local Government Act* and *Vancouver Charter

96 Possible amendment to provide for regulations of leases for more than 20 years.

Small Claims Act

97 *Small Claims Act* amendment to be considered to remove from Small Claims Court jurisdiction disputes under this Act, if necessary.

Limitations Act

98 *Limitations Act* amendment to extinguish debts under this Act after 2 years to be considered.

Other Acts

99 Consequential amendments will be considered to other legislation as required.

Division 3 – Coming into force

Coming into force

100 This Act comes into force on _____.